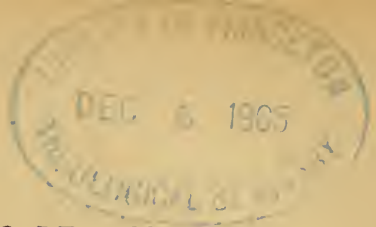

THE

TEN YEARS' CONFLICT:

BEING THE

HISTORY OF THE DISRUPTION

OF

THE CHURCH OF SCOTLAND.

BY

ROBERT BUCHANAN, D.D.

"Non anni domuere decem, non mille carinæ."—*Virgil.*

NEW EDITION.—FIFTH THOUSAND.

VOL. I.

BLACKIE AND SON:
GLASGOW, EDINBURGH, LONDON, AND NEW YORK.
MDCCCLIV.

GLASGOW:
W. G. BLACKIE AND CO., PRINTERS,
VILLAFIELD.

PREFACE.

THE object of this work is to explain the causes and to trace the history of the Disruption of the Established Church of Scotland. The principles involved in that ecclesiastical convulsion, have an immediate bearing both on the constitution and prerogatives of the Church of Christ, and on the great question of its relation to the civil power. The subject is therefore one of catholic importance, and it derives additional and peculiar interest from the character of the present times. In one form or another the points at issue in the "Ten Years' Conflict" are at this moment, in almost every nation of Europe, the questions of the day.

The struggle, which terminated in the Disruption, lasted, as the title indicates, exactly ten years. The evangelical and reforming party in the Church of Scotland acquired the ascendency in its supreme Court, the General Assembly, in 1834, and maintained it till 1843. The reader, however, is not hurried at once into that exciting and eventful decade. It is necessary that he should first have formed some acquaintance with the matters about which, and the parties between whom, the struggle is carried on. To have thrust him, without any such preparation, and if not previously conversant with the subject, into the

midst of the "conflict," would have been to surround him with combatants whose ensigns he could not interpret, and whose war-cries would seem little better than a jargon of unintelligible sounds. For the purpose of avoiding this grave inconvenience, he is withdrawn at the outset to some distance from the field, and is invited leisurely to survey the ground which the contending forces are to occupy, and to examine their movements and trace their progress as they are seen advancing towards it. Both Scripture and ecclesiastical history—and, in particular, the ecclesiastical history of Scotland—are freely though concisely employed to assist him in these preliminary studies. When he descends at length from this quiet eminence, to mingle in the shock of battle, and to find himself surrounded with the dust and noise inseparable from all human contests—inseparable even from those which are occupied with the assertion and vindication of the noblest truths and the most sacred interests for which men can be called to contend—it is hoped he will no longer be at any loss to discover what is at stake, or to appreciate its magnitude and worth.

The present edition has been carefully revised, but the author has not found it necesssry to make any material alteration.

Glasgow, *October*, 1852.

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THE

TEN YEARS' CONFLICT.

CHAP. I.

THE NATURE OF THE QUESTION.

The fact of the Disruption, and the influence it is destined to exert.

THE event of which this volume is designed to explain the causes, and to record the history, is a great fact. Whatever theories may be formed to account for it, the phenomenon exists. If not a new, at least a rare thing under the sun has appeared. A large body of men of mature age, and having among them a reasonable share of intelligence, have preferred a truth to money: hundreds of ecclesiastics have abandoned their homes and their livings, under no other compulsion than that of conscience: a Church has voluntarily surrendered the substantial immunities of a State establishment, to secure the enjoyment of spiritual freedom. However this result may have been brought to pass, it has happened; and there is no magician who can either charm it into oblivion, or take from it its power to influence the public mind. As surely as that providence is not a game of chance—as certainly as that God is in history—the Disruption of the Church of Scotland carries in it a message from the Eternal. He has spoken in that movement, and His word will not return unto Him void. Consequences are already showing themselves, which not indistinctly indicate how wide the sweep and range of that movement may ulti-

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mately prove. Like a stone flung into the water, it has raised a circling swell, whose expanding circumference may yet be felt on the furthest shore.

Disadvantages on one side, and advantages on the other, of writing so soon the history of the Disruption.

It may be difficult, indeed, to estimate justly, and to describe impartially, a struggle so recent as that which gave her distinctive name to the Free Church of Scotland. Nearness to an object has much the same effect in time that it has in space: the details are more clearly seen, but their relation to one another, and the proportion which the whole bears to other objects around, cannot be so well discerned. The proximity which is thus so apt to derange our apprehensions of things, is certainly not less apt, *and especially where controversy is concerned*, to derange our judgments of men. Like the mists which gather often upon the landscape at the close of a sultry day, perplexing the evening traveller, hiding some things from his view, and distorting and exaggerating others; there are prejudices engendered by the heats of polemical discussion, which settle down not unfrequently upon the field of debate in so dense and bewildering a cloud as may, for a time at least, mislead even the calmest mind. But if there be difficulties on the side of nearness to a controversy, there are also advantages too. Writing while the facts are still fresh in ten thousand memories, the historian is under a censorship which can hardly fail to detect and expose whatever may be found to deviate from the straight line of truth. Posterity will thus have a better guarantee for the accuracy of the data on which its conclusions are to rest. Mere errors of opinion, as to the value and the issues of the question in dispute, will be corrected by the progress of events. Standing, as we do, so near the rise of the stream, we may miscalculate its force and misapprehend the direction in which it is destined to flow. Speculations the most various and opposite, on points like these, may all at present find men to urge

them with equal confidence. It is but the discharge of a thundercloud—say some,—the foaming and noisy torrent will soon be spent. It is such a river—say others,—as the prophet beheld in vision issuing forth from under the threshold of the sanctuary. At the first the waters were to the knees; already they reach to the loins: a little longer and they shall be waters to swim in, a river that cannot be passed over. What then? A future age will no longer be perplexed between these contending auguries; its simple business will be to observe a fact.

Such considerations as these appear to be sufficient, if not to require, at least to justify the attempt to throw thus early into the form of a continuous narrative the history of transactions, the record of which has hitherto lain scattered throughout the *disjecta membra* of a whole library of pamphlets.* The subject is one which almost every class of thinking men must acknowledge the importance. It not merely touches, but directly concerns and immediately involves, some of the greatest questions which can occupy the human mind. The character and constitution of the church of Christ as a spiritual society, a kingdom not of this world: the nature and limits of church authority: the relations of church and state, and the subjection of both to Him who is at once "the Head of the body the church," † and the "Governor among the nations:" ‡ the separate and independent jurisdiction which belongs to them respectively, together with the supremacy of scripture and the rights of conscience as regulating its exercise,—these are some of the cardinal points on which the Disruption controversy chiefly and ultimately turned. Such questions have a native

Importance of the subject.

* This is not a random expression. The collection which the author has now before him—all of them originated by the ten years' conflict and occupied with the discussion of its facts and principles—contains no fewer than 782 pamphlets.

† Col. i. 18. ‡ Psalm xxii. 28.

CHAP. I.

magnitude and intrinsic worth, which, in any circumstances, might well challenge the most careful and earnest consideration. But in the present age, to study them is no longer a matter of choice, but of urgent and imperative necessity. They are emphatically the questions of the day. They have come abroad from the schools of theology, and from the closets of divines, to agitate equally the cabinets of statesmen and the counsels of the church. From the regions of speculative inquiry they have descended into the busy field of human affairs, and neither the christian nor the politician can avoid coming into contact with one or other of the countless practical forms in which they are daily arising on his path.

Prominent place occupied by such questions at the present day.

In dealing with such questions hitherto, it must be well known to every one at all familiar with ecclesiastical history, that neither states nor churches have had much recourse to the great principles which these questions involve, nor to the divine directory in which these principles are embodied. Considerations of expediency, hereditary usage, the necessity of the times, the convenience or mere arbitrary will of leading churchmen and politicians;—these, for the most part, sufficed to determine the views that were taken, and the course that was followed, in reference to such questions in former times. Neither the character nor the exigencies of the present age will suffer them to be so dealt with now. There is a spirit in these days, extensively at work, that refuses to take names for things, and which will neither acknowledge prerogatives nor reverence institutions, however sanctioned by time and custom, which have not some eternal truth to stand upon, and some consequent foundation in justice and the nature of things. And what this fearless, all-investigating, truth-testing spirit demands, the actual condition of things in the churches and nations of christendom urgently requires. In relation to the very questions

The way of dealing with such questions in past times.

Present times require for such questions a different treatment.

above alluded to, there is almost everywhere a growing dissatisfaction with the position in which they stand, and an increasing desire for some better adjustment of their respective claims. The mind of the civilized world, both religious and political, is fermenting with fresh thoughts upon the subject; and though the result for a time may be manifest in little else than commotion and confusion, the impure and disturbing elements will doubtless, in the end, be ejected, leaving public sentiment to settle into the clearness and calmness of truth.

In circumstances like these, the anticipation will not, perhaps, be thought unreasonable, that materials may be found in the movement which this work proposes to trace, not only of great interest in themselves, but of peculiar importance in relation to the present times. It will not certainly diminish either their attractiveness or their usefulness, that they will bring up the grave questions on which they bear in a concrete, rather than an abstract form: not in the shape of a speculative inquiry, but in that of events which have actually occurred. History, it has been said, is philosophy teaching by examples; and such is the form, at least, which the lesson will in this case assume. In following this course, however,—a course which implies rather the narration of facts than the discussion of principles,—candour will allow it to be both relevant and necessary to enunciate somewhat more fully and distinctly the nature and state of the question, out of which arose the great and protracted controversy about to be described. To perceive and estimate aright the real *nature* of the question, we must look into the word of God; and to judge correctly of the *state* of the question, in its bearing on the Disruption of the Church of Scotland, we must look into history. The question has evidently these two aspects, the one scriptural, the other constitutional. Nor is it unimportant to observe,

Practical form in which the questions treated of are to be presented.

The two aspects of the question.

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that while both were blended together in the form which the question bore from beginning to end of the Disruption controversy, they not only admit of being viewed apart, but require to be so. For not only have they no necessary connection with one another, but so completely are they distinct and independent, that the one might have triumphed in the controversy, even though the other had signally and altogether failed. The question might have a clear footing in scripture, and yet have none in constitutional law; or *vice versa*, its constitutional authority might be conclusively vindicated, while no adequate scripture warrant could be found for its support. It is this peculiarity—this twofold character—of the question which gives it so wide a range. As constitutional, it is Scottish; as scriptural, it belongs to all countries alike. And since it is scripture, and not human enactments, that must be regarded as the ultimate and binding authority where matters of religious truth and moral obligation are concerned, the grand question would still remain, after that which belonged to the interpretation of civil statutes and national treaties had been finally determined. The controversy would then only have passed up from a lower to a higher and purer region, where a greater and more awful Judge must decide the cause.

An introductory exposition indispensable.

It may be objected, indeed, that to proceed in the way now indicated, is to sink the historian in the advocate: to make the case rather than to record it. The enlightened and impartial reader will, it is hoped, find no ground for any such allegation. Without some opening statement of the nature above explained, it were obviously impossible to render the subsequent narrative either useful or intelligible. Till the reader has been made acquainted with the subject-matter of the controversy, and with the circumstances in which it came up for discussion, he is evidently in no condition to decide between the opposing arguments, or to enter upon

the field of debate at all. In supplying that information, it will be the author's care, as undoubtedly it is his sacred duty, to look at things not through the distorting medium of partizanship, but with a single and equal eye.

The real nature of the question.

And what, then, was the real nature of the question which gave rise to the ecclesiastical convulsion of 1843? It was a religious question; the question of Christ's sole Headship and supremacy over his body, the church. From the very outset it had its root in that fundamental doctrine, and in the end it was upon that doctrine the entire controversy turned. It is not intended here to frame a treatise on the doctrine now named, or to enter upon any formal and elaborate consideration of what it involves. For the purpose contemplated it will be enough to specify some of those points connected with it about which orthodox divines are generally agreed.

Nature and origin of the Church.

The church is a spiritual society founded and upheld by the Lord Jesus Christ, deriving its existence, its laws, its institutions, its privileges from him alone. "Christ loved the church and gave himself for it, that he might sanctify and cleanse it with the washing of water by the word: that he might present it to himself a glorious church."* "Ye are a chosen generation, a royal priesthood, an holy nation, a peculiar people, that ye should show forth the praises of him who hath called you out of darkness into his marvellous light: which in time past were not a people, but are now the people of God."† So far in regard to the church considered as a spiritual society, originated, and maintained, and claimed as his own, by our Lord. While for the rest, its deriving all its laws, institutions, and privileges entirely from him—let these testimonies suffice. "When he ascended up on high, he led captivity captive, and gave gifts unto men.

* Eph. v. 25–27. † 1 Pet. ii. 9, 10.

CHAP. I. * * * And he gave some apostles; and some prophets; and some evangelists; and some pastors and teachers; for the perfecting of the saints, for the work of the ministry, for the edifying of the body of Christ. Till we all come in the unity of the faith, and of the knowledge of the Son of God, unto a perfect man, unto the measure of the stature of the fulness of Christ."* "And Jesus came and spake unto them, saying, All power is given unto me in heaven and in earth. Go ye therefore and teach all nations, baptizing them in the name of the Father, and of the Son, and of the Holy Ghost. *Teaching them to observe all things whatsoever I have commanded you*, and lo, I am with you alway, even unto the end of the world."†

The Church's right and power of self-government.

This spiritual society, the church, possesses inherently the right and the power of self-government. It possesses the right, for it was conferred by Christ himself. "I will give unto thee (said the Divine Founder of the church) the keys of the kingdom of heaven; and whatsoever thou shalt bind on earth shall be bound in heaven; and whatsoever thou shalt loose on earth shall be loosed in heaven."‡ This explicit declaration addressed to the apostles, through one individual of their number, was subsequently made directly and immediately to the collective body. "Verily I say unto you, Whatsoever YE shall bind on earth shall be bound in heaven, and whatsoever YE shall lose on earth shall be loosed in heaven."§ And still further, to make it manifest that the authority thus delegated was not temporary but perpetual, the Lord said yet again, "Lo! I am with you alway, even to the end of the world."‖ To carry on that government, the right to exercise which, these explicit statements render so clear and indubitable, all the means necessary were provided. Permanent offices and ordinances, peculiar

* Eph. iv. 8, 11–13. † Matt. xxviii. 18–20. ‡ Matt. xvi. 19.
§ Mat. xviii. 18. ‖ Matt. xxviii. 20.

to the church, were instituted, and the requisite instructions given for having the former filled by spiritual men, and the latter administered under suitable sanctions. "Then said Jesus to them again, Peace be unto you; as my Father hath sent me, even so send I you."* "He that heareth you, heareth me; and he that despiseth you, despiseth me; and he that despiseth me, despiseth him that sent me."† While, on the other hand, to the members of the church, as distinguished from the governing body, such injunctions as these are given: "Obey them that have the rule over you, and submit yourselves: for they watch for your souls as they that must give account."‡

Church bound to exercise her government in subjection to Christ.

The right and power of self-government which the church has thus received from Christ, she is bound to exercise in subjection to his will. She is not at liberty to suffer any third party to come between herself and her Lord. One is her Master, even Christ. "Ye call me master and Lord, and ye say well, for so I am."§ To maintain her allegiance, it is not enough that she say unto him, "Lord, Lord." She must do the things which he has commanded her. For as the husband is the head of the wife, even so Christ is the Head of the church. And, accordingly, the church is subject unto Christ "in everything."‖

Subjection to Christ implies subjection to His word.

It is obvious how directly this consideration bears, both on the supremacy of Scripture, and on the rights of conscience. Subjection to Christ necessarily implies subjection to his word. That word is the lively oracle through which his voice is heard, and to that voice the church must continually and exclusively bend her ear. "Woe to the rebellious children, saith the Lord, that take counsel but not of me: and that cover with a covering, but not of my Spirit, that they may add sin to sin. That walk to go down into

* John xx. 21. † Luke x. 16. ‡ Heb. xiii. 17.
§ John xiii. 13. ‖ Eph. v. 24.

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Egypt, and have not asked at my mouth: to strengthen themselves in the strength of Pharaoh, and to trust in the shadow of Egypt."* In so far as the church consents to take her directions, in matters spiritual, from any other than Christ speaking in the Scriptures, she, to that extent, ceases to be the church of Christ. She is suffering other lords to have dominion over her. And, in so far as the attempt may be made to compel her to take such extraneous directions, the rights of conscience are outraged, and submission to the unlawful authority is not a duty, but a crime. In such a case, the divinely-recorded example of the inspired apostles must be her guide. "Whether it be right in the sight of God to hearken unto you more than unto God, judge ye; for we cannot but speak the things which we have seen and heard."† Nor will it mend the matter, that the compelling party appeals to scripture, as sanctioning the doctrine or practice which it is wished to enforce. The church is not only entitled, but bound, in so far as the discharge of her own duty and the regulation of her own conduct are concerned, to interpret scripture for herself. It is not because she is the infallible interpreter, that this becomes her right and duty, but because there is no infallible interpreter on earth, and because she must answer for herself. The principle which thus entitles her to freedom from external coercion, is the very same which secures freedom within her own pale. Christ is the Head of the church, but he is also "the Head of every man."‡ The church has no "dominion" over the faith of its members.§ While it belongs to her "to teach them to observe all things whatsoever Christ has commanded," it belongs to them, at the same time, "to search the Scriptures whether these things are so:"‖ that "every man may be fully persuaded in his

The Church must interpret Scripture for herself.

* Isa. xxx. 1, 2. † Acts iv. 19, 20. ‡ 1 Cor. xi. 3.
§ 2 Cor. i. 23. ‖ Acts xvii. 11.

own mind,"* and, proving all things, "may hold fast that which is good."†

These views of the church as a spiritual kingdom, and as possessing inherently the right and power of self-government, in sole subjection to her divine King and Head, are evidently altogether independent of any question relating to the forms of church-government. They grow out of first principles, which belong to the very essence of the church, and are entitled, therefore, to equal consideration from every branch of the church of Christ, whether the platform of its government be prelatic, congregational, or presbyterian. The case, in this respect, is substantially the same as that of civil society. Civil government is an ordinance of God, and whether the administration of civil affairs be monarchical or republican, in no degree touches the question of its subjection to Him by whom "kings reign, and princes decree justice."‡ And while these views, as has been shown, have a very direct and important bearing on such vital points as the supremacy of Scripture, and the rights of conscience; they are not less closely bound up with a variety of other interests of fundamental importance. Among these may be specified the spirituality, purity, and prosperity of the church of Christ; and as inseparably connected therewith, the manifestation of the divine glory, and the salvation of a perishing world. The spirituality of the church is invaded and destroyed, in proportion as any secular power usurps and exercises lordship over it. It loses thereby its distinctive character as a kingdom not of this world. Secular power is, in other words, the power of the sword; and to bring in the sword into the House of God is to introduce the grossness of earth into the kingdom of heaven. The weapons of the church's warfare are not carnal, but

Question distinct from what relates to forms of Church government.

Bearing of the subject on the spirituality, purity, and prosperity of the Church of Christ.

* Rom. xiv. 5. † 1 Thes. v. 21. ‡ Prov. viii. 15.

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spiritual. Conscience and the concerns of the soul lie not within the domain which the sword can regulate. If the church herself take the sword to enforce obedience to her decrees, she becomes a tyrant. If she consent to act under its dictation, as wielded by the civil power, she becomes a slave. In either case the keys drop from her hand. The power which Christ has given her to bind and to loose, to open and to shut, is not the power of force, but the power of the truth. It is the truth alone which is mighty, through God, to subdue men to Christ. Force may subdue them to Cæsar, but it will not subdue them to the King of Zion. "If my kingdom were of this world, then would my servants fight, that I should not be delivered to the Jews: but now is my kingdom not from hence."*

The purity of the Church bound up with its spirituality.

On the preservation of the church's spirituality, it must be abundantly obvious that her purity depends. In so far as other than spiritual considerations are brought to bear upon either the admission or expulsion of her members, her purity is endangered. It is no doubt true, that the church may loose both spirituality and purity without being subject to any external secular control. But this fact in no degree affects the question—first, that to deny to the church the right of self-government is to attack, and, so far as this denial is enforced, to subvert her spirituality; and second, that, in proportion as her spirituality is invaded, and secular force is substituted for the authority of the truth, her purity must decline. The church is God's witness against the sins and errors of a fallen race; and for the purity of her testimony it is indispensable she should be free to take her doctrines, discipline, worship, and government, not from the commandments of men, but directly and exclusively from the word of her exalted Lord. She is the light of

* John xviii. 36.

this benighted world; and, in so far as she is not suffered to lie open to receive and to reflect the full, unbroken radiance of the Sun of righteousness, by reason of some earthly power coming between, she must needs suffer, more or less, a "disastrous eclipse," and the light that is in her will be darkness.

It will be remembered that what is intended here is not to frame a treatise, or to enter into elaborate investigations on the points thus briefly noticed; but rather, and simply to indicate some of the fundamental principles which lie at the bottom of the controversy about to be described. Had it been otherwise, and that a fuller exposition of these preliminary questions had consisted with the main object of this work, it would have cost little labour to present ample evidence of the grievous injuries that have been inflicted on the church's purity, by the encroachments of the secular power. Whatever hinders the church from going freely to the law and to the testimony, and from adjusting alike her creed and her administration, according to that divine standard, must needs be adverse to her purity. Reformation is arrested, abuses are multiplied and perpetuated, and the house of prayer is often made "a den of thieves," where worldly men carry on an earthly and unholy traffic in sacred things.

Spirituality and purity of the Church indispensable to its prosperity.

With the spirituality and purity of the church her prosperity is inseparably bound up. There is, indeed, a kind of prosperity that is attainable without these accompaniments, and for the sake of which they have been too often and most criminally sacrificed. The prosperity that consists in temporal aggrandizement, in political ascendancy, in outward security and ease, in the favour and countenance of the world—is not much promoted by a rigorous and uncompromising adherence to Scripture and to Christ. "If ye were of the world, the world would love his own; but

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because ye are not of the world, but I have chosen you out of the world, therefore the world hateth you."* It has been often forgotten, what these pregnant words so unequivocally announce, that the course which most directly conducted the church to worldly prosperity, was that which led her farthest away from Him in whom alone her true prosperity is found. For wherein lies the true prosperity of the church, if it be not in the success with which she is effecting the great and blessed ends of her institution; in the progress she is making towards the conversion of the world? And to say that the maintenance of her spirituality and purity are indispensable to that result, is simply to affirm that a corrupt tree cannot bring forth good fruit. "Ye are the salt of the earth; but if the salt have lost his savour, wherewith shall it be salted? it is thenceforth good for nothing but to be cast out and to be trodden under foot of men."† It is only by maintaining, clear and conspicuous, her distinctive character as a spiritual society, a kingdom not of this world, she can hold up the great fact before the minds of men, that she is God's witness on the earth; and it is only by keeping her testimony pure, both in her corporate profession and in the faith and practice of her individual members, she can preserve her moral power as the teacher of truth and the reprover of sin. Whether, therefore, we look to the conditions which constitute her a fitting instrument for the work assigned her, or to the circumstances in which alone she is warranted to ask and expect that blessing from on high, that out-pouring of the Holy Spirit, upon which the efficacy of her ministrations must ever wholly and absolutely depend—the conclusion is equally apparent, that to the prosperity of the church, her purity and spirituality are essential requisites. As these decline, her prosperity must

What constitutes the true prosperity of the Church.

The office of the Church.

* John xv. 19. † Matt. v. 13.

inevitably fade: as these revive and abound, her prosperity will flourish. Beyond all doubt, it is because the church, in bygone times, instead of standing apart, has suffered herself to so large an extent to be blended and confounded with the world—because, instead of preserving the purity of her celestial origin, she has permitted both her creed and her government to be accommodated to the tastes and the fashions of men—that the boundaries of Christ's kingdom are still so narrow, and that the widest and most populous regions of the earth are still lying in wickedness.

Bearing of these questions on the manifestation of the Divine glory, &c. &c.

These are considerations which reflect unspeakable importance on the questions already indicated—questions belonging to the constitution and relations of the church of Christ. Traced out in their just and natural bearings, they will be found to develope themselves, as their ultimate issue, in results involving nothing less than the manifestation of the divine glory, and the salvation of a perishing world.

The glory of God the end for which all things were made.

The Lord hath created all things for himself. To make known his glory is his last and highest end—the end to which everything else in that mighty universe to which he has given being is inferior and subordinate. The heavens declare his glory, and the firmament showeth his handiwork. They are so framed and fitted to illustrate his wisdom, and power, and goodness, that there is no speech nor language where their voice is not heard. There is nothing made—animate or inanimate—material or spiritual—which is not adapted to this grand design. And if, among the intelligent creatures of God, there be one who, with the widest range of vision, and the most penetrating insight into the nature and uses of the Creator's works, could take his stand on some commanding eminence, so as to survey at one glance the mighty field which his eye and mind had been formed to embrace, his were the fittest voice to sing that magnificent

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anthem, "Praise ye the Lord from the heavens: praise him in the heights: praise ye him, all his angels: praise ye him, all his hosts. Praise ye him, sun and moon: praise ye him, all ye stars of light. * * * Praise the Lord from the earth, ye dragons, and all deeps: fire and hail: snow and vapour: stormy wind fulfilling his word. Mountains and all hills: fruitful trees and all cedars: beasts and all cattle: creeping things and flying fowl: kings of the earth and all people: princes and all judges of the earth: both young men and maidens: old men and children. Let them praise the name of the Lord; for his name alone is excellent; his glory is above the earth and heavens."*

Christ the chiefest manifestation of the Divine glory.

And yet it is not any of these works of Jehovah in which His glory most brightly shines. In a summer's day the whole firmament is luminous, pervaded and flooded everywhere with light. But there is one spot in that effulgent concave that excelleth in glory,—even there where the sun shineth in his strength. And so is it as regards the glory of God. It radiates from the whole universe, which, throughout all its boundless extent, is lighted up with testimonies to the invisible things of Him, even His eternal power and Godhead. But the central, the excelling glory, is in Christ, the image of the invisible God. And what is the church, but the firmament in which this Sun of Righteousness has been set to shine. It is by the church he makes known the manifold wisdom of God. The church is the new creation on which His own image is impressed. The church sees

Christ seen in the Church.

Christ in the word, but the world sees Him in the church. "As thou hast sent me into the world, even so have I also sent them into the world. And for their sakes I sanctify myself, that they also might be sanctified through the truth. * * * And the glory which thou gavest me I have given

* Psalm cxlviii.

them, that they may be one, even as we are one. I in them, and thou in me, that they may be made perfect in one: and *that the world may know* that thou hast sent me, and hast loved them as thou hast loved me."* This manifestation of the divine glory, in and by the church, will be clear, and complete, and impressive, in proportion as she embodies and exemplifies the mind and the moral image of her Lord. And in order to this, Christ must be all in all,—the one only prophet, the one only priest, the one only king. The doctrine this prophet teaches,—the worship this priest consecrates,—the discipline this king enjoins,—must be preserved inviolate; for thus alone can the church, which is His body, exhibit the fulness and manifest the glory of her unseen but ever living Head. Whatever in the church's creed, ordinances, or government, is other than Christ's, so far clouds His glory, and so far obstructs the conversion of the world. If the world sees in the church, not Christ's image, but its own, —sees the reflection of its own secular and earthly spirit,— it will be only the more encouraged in its errors and its sins.

Such, then, is the nature of the question involved in the Disruption controversy. How and to what extent Christ's Headship over the church was involved in that controversy, will appear in the sequel. Till the facts are adduced, the reader doubtless will hold his judgment on these points in abeyance. But that the question itself, if there be any truth or reality in those views of it which have now been given, is one of vital moment, cannot admit of discussion among intelligent believers in the christian faith. It is this alone which, at the present stage, any one is asked to concede. In its full extent it will, in point of fact, be conceded only by spiritual men. There is much in it which the worldly mind cannot discern, and therefore cannot appre-

The question of the conflict was that of the Headship of Christ over the Church.

* John xvii. 18, 19, 22, 23.

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ciate. There is not a little in it which, to such a mind, will appear to be foolishness.* While, at the same time, there are great general principles running through it, so broad and palpable, that to every one who acknowledges the church to be a divine institution, their existence and their importance must be alike apparent. The ends, indeed, for which the church has been founded, the responsibilities of its government, the privileges of its communion, no unspiritual man is in a condition rightly to estimate. And, therefore, any struggle to promote these ends, to vindicate these responsibilities, to secure these privileges, in proportion as it is self-sacrificing and earnest, will seem to him extravagant and unnecessary. It is for this reason that questions relating to the rights of the christian people in the election of those who are to minister among them in holy things, except in so far as they are taken up as a mere branch of liberal politics, are so little accounted of by secular men. Contemplating the minister of religion simply as a functionary whose business it is to conduct, with due decorum, the ceremony of public worship, it hardly occurs to them that they have any personal interest of importance involved in his appointment. It is altogether and intensely different with those who look upon him as one who is either to endanger by his unfaithfulness and incompetency, or to establish by his gifts and fidelity, the welfare of their immortal souls. But whether the intrinsic worth of the questions which bear upon this subject be apprehended or no, it must be allowed by every one who looks at them with common intelligence, that they are questions which range themselves directly and immediately under the general category of Christ's Headship over the church. If the christian people have any rights at all in the election of their ministers, these rights,

The importance of the question apt to be undervalued by secular minds.

* 1 Cor. ii. 14.

Right of the people to be heard in the election of their ministers.

bearing, as they do, on the order of Christ's house, and the administration of its affairs, must be exercised in subjection to His authority and will. Christ's people "know his voice: and a stranger will they not follow, but will flee from him: for they know not the voice of strangers."* The same apostle who records these sayings of his Lord, lays down, in one of his epistles, this corresponding injunction, "Beloved, believe not every spirit, but try the spirits whether they are of God: because many false prophets are gone out into the world."† From these statements it would seem inevitably to follow, that any system which leaves no room for the exercise of this spiritual discernment, or under which it is overborne when actually exercised, must needs be out of harmony with the word of God. If it be the church herself that, by ecclesiastical authority, excludes or disregards the people's voice, it will be difficult to escape, in so doing, from the charge of lording it over God's heritage.‡ "But Jesus called them to him and saith unto them, Ye know that they which are accounted to rule over the Gentiles, exercise lordship over them: and their great ones exercise authority upon them. But so it shall not be among you."§ If, on the other hand, it be some power external to the church, that nullifies the solemn and deliberate judgment of a christian congregation, and intrudes a pastor upon them without respect to their conviction of his unfitness to edify their souls, it must be obvious that violence is thereby done both to the rights of conscience and to the independent jurisdiction in matters spiritual of the church of Christ. And for the church herself to acquiesce in that violence, is at the same moment to betray the crown-rights of her Lord and the spiritual liberties of His people.

The same observations are applicable in all their force to

* John x. 4, 5.
† 1 John iv. 1.
‡ 1 Pet. v. 3.
§ Mark x. 42, 43.

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Ordination and deposition of ministers, are matters purely spiritual.

the setting apart of men to the office of the holy ministry. That office is exclusively spiritual. It confers no authority, and involves no functions, but those which have reference to "the edifying of the body of Christ." Those who are invested with it "are ministers of Christ, and stewards of the mysteries of God."* To judge, therefore, of the qualifications necessary to that office, and of the circumstances in which it shall be given or retained, as being entirely a spiritual work, must needs belong to spiritual men. "The things that thou hast heard of me among many witnesses, the same commit thou to faithful men, who shall be able to teach others also."† If, in discharging this sacred duty, of laying hands upon those who are to teach and rule in the house of God, any secular power be suffered to interpose its authority, the ministry is vitiated. It is degraded from a divine ordinance into a secular institution. A scriptural ministry is one of the choicest of those gifts which Christ has given to men. But if the church be not left free, with Christ's word as her divine directory, in her hand, to consult and determine as to what constitutes a title to the ministry and to the cure of souls; if, in deference to some human enactment, she is either hindered from conferring that title on any whom she judges to be qualified, or compelled to confer it on any whom she judges disqualified according to the standard which the Lord has given for her guidance—she is no longer in a condition to maintain a scriptural ministry. And, consenting to act in these circumstances, she makes herself a partaker in other men's sins, pollutes an ordinance of God, sends men into the vineyard whom the Lord has not sent, and deals like Simon Magus, who thought that the gift of God might be purchased with money.

The ministry vitiated if the Church be not free in conferring it.

In setting forth these views of the church of Christ,

* 1 Cor. iv. 1. † 2 Tim. ii. 2.

nothing has yet been said directly on the subject of the church's relations to the civil power. These will come to be noticed in the immediately succeeding chapter. They belong to the *state* of the question involved in the Disruption-controversy, rather than to the nature of it, and it is to this latter branch of the subject exclusively that the foregoing observations have been confined. It has been already remarked, that the views of the church hitherto insisted on are altogether independent of any question relating to the power of church government; and with equal truth it may be now still farther affirmed, that they are also independent of all that is essential in the great question of national establishments of religion. The parties who range themselves on opposite sides of that question may still be entirely at one, on the other and higher question of the church's independence in matters spiritual; that is, on the question of Christ's sole headship and supremacy over it, as the King of Zion. The ground that the church has received a civil establishment is by no means the only one on which the state may claim a right to control her spiritual freedom. Nor is it the simple renunciation of such an establishment that will suffice to protect the church from the encroachments and usurpation of the civil power. The only ground on which the church can have any real security for the permanent maintenance of her peculiar rights and liberties, is the recognition by the state of those fundamental principles evolved in the preceding summary, as being inherent in the very essence of the church—as entering into its very constitution as a divine society, a kingdom not of this world. Let these be acknowledged, and then, whether established or unestablished, the church will be left to act within her own province undisturbed by external assaults; but let these fundamental principles be denied, or not admitted, and the want of an establishment will be no protection whatever

The independence of the Church a distinct question from that of Church establishments.

State may claim control over an unestablished Church.

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Plea of the State for interfering with liberty of the Church.

against the invasions of the secular government. The plea of all states for making such invasions is, that there can be no *imperium in imperio:* that no power within the limits of the state's territory can be left in anything beyond the state's control: and nothing will meet that plea and effectually silence it, but the recognition of the great scripture truth that the church is not an *imperium in imperio,* in any sense which can give the state a right to control it; in other words, a recognition of the scripture principle that the *imperium* of the church is over a distinct and different province from that which belongs to the *imperium* of the state. Christ is a king and has a kingdom, but his kingdom is "not from hence: it is not of this world."* It is no rival power to that of the state—its field is conscience: that of the state is person and property—the one deals with spiritual, the other with temporal things. And there is therefore not only no need, but no possibility of collision between them, unless the one intrude into the other's domain. The only way effectually and permanently to guard against such intrusions, together with all their attendant evils, is for each to recognize the entire independence of the other. In that recognition, and in it alone, will be found the true basis of a righteous, enlightened, and lasting peace. And hence the catholic interest which really belongs to every legitimate scriptural effort to assert and maintain the rightful jurisdiction of the church of Christ. It is on the footing that the conflict about to be described was professedly an effort of that kind, and one of the most prominent that has been witnessed in modern times, that it claims, as a matter of common concern, a hearing from all who have been taught to pray that Christ's kingdom may come, and that His will may be done on earth as it is done in heaven.

* John xviii. 36, 37.

CHAP. II.

THE SCOTTISH REFORMATION.—A CONTRAST.

Why have these questions been so little debated anywhere out of Scotland?

AN interesting inquiry might here be suggested by the fact, that Scotland has been almost exclusively the battle-field of such questions as those which are enunciated in the foregoing chapter. If they be indeed religious questions, entering, as there described, so essentially into the constitution, and bearing so immediately on the welfare, of the church of Christ,—if they be questions on which the Bible gives so distinct and authoritative an utterance, is it not singular that they should have been so little agitated anywhere out of this northern kingdom? Such a reflection is natural: it both strikes and influences many minds; and because the solution of the difficulty is not always apparent, many may be disposed indolently to set down the whole church controversy about non-intrusion and spiritual independence to some peculiar idiosyncracy of the Scottish mind. As certain plants are indigenous in certain soils, even so, it may be thought, there must be something in the intractable obstinacy of the national temper, and in the metaphysical subtlety of the national intellect, which breeds discussions upon the intrinsic power of the church and the spiritual rights of its members! And perhaps the notion, though not exactly in the sense in which it is sometimes understood, may not be altogether destitute of truth. National character undoubtedly exerts a powerful influence both on the opinions and the institutions of a people. Those principles of equity, for example, which enter so largely into the whole theory and working of the British constitution, have been often, upon this footing, traced to that strong sense of justice,

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that love of fair play, which forms so prominent and honourable a characteristic of the Saxon mind.

National character, and what it had to do with Scotland's ecclesiastical controversies.

There is nothing unreasonable in the supposition, that in a similar way the national character of Scotland may have had somewhat to do with its ecclesiastical controversies. When brought into contact with religious truth, it is natural to think that both the acuteness of the national understanding, and the strength of the national purpose, would be unequivocally indicated. If the one quality was fitted to secure an intelligent apprehension of the principles in dispute, the other was not less likely to lead to their being firmly grasped and tenaciously held. And where the principles in question related to matters so vital as the supremacy of Christ, in and over His own body, the church, and to the liberties and privileges purchased by Him for its members, all that we know of the Scottish people would lead us to predicate that, if once these principles were seen and seized upon, they would not be soon surrendered. The same force of character and doggedness of resolution which repelled the aggressions of England upon their national independence, were not likely to lie dormant when the strong impulses of religious conviction should call on them to vindicate the independence of a domain far higher and more sacred still,—the domain of conscience, and of the things of God.

It is not necessary, however, to have recourse to such doubtful speculations in order to find an answer to the inquiry suggested at the opening of this chapter. A clear and sufficient answer to it can be furnished from a far less questionable source. When it is asked why the controversy about the doctrine of Christ's Headship has been so little heard of out of Scotland, this is the reply which history returns, —that by none of the reformed churches out of Scotland was the doctrine thoroughly investigated, or the attempt

The answer which History gives to the question of this chapter.

ever made to bring it to bear, practically, on the framing of their constitution, or the administering of their affairs. The causes which led to this result, though well enough known, are not always sufficiently attended to. They are fitted, however, to throw important light on the whole subject of this work. Previous to the reformation, the civil power had everywhere been subjugated and enslaved by the church of Rome. The degraded state was become the vassal of the domineering church. Because it belonged to Christ to say, "All power is given unto me," His pretended vicar, seated on the papal throne, claimed for himself the sword as well as the keys—the things of Cæsar as well as the things of God. So late as 1809, in the papal bull by which Napoleon was excommunicated and anathematized, the then reigning pontiff was not ashamed to avow, and with all the arrogance of the dark ages, these monstrous pretensions to universal sovereignty. "Let our persecutors learn, once for all, that the law of Jesus Christ has subjected them to our authority and our throne: for we also bear the sceptre, and our power is far superior to theirs."* So oppressive, indeed, and intolerable had this usurpation of the ecclesiastical over the civil jurisdiction proved, that long before the reformation the public mind of Europe had begun to rebel against it. "The pragmatic sanction of the Gallican church (1438), the statute of præmunire in England, and the opinions boldly maintained abroad, and uttered in the councils of Constance, Basle, and Bourges, all indicated a rapid advance of the public mind, such as made the ultimate reduction of the papacy inevitable."† Strangely as it may sound in the ears of those who are unacquainted with the subject, it is not without reason the learned author now

The usurpations of the Church of Rome; and the reaction which they produced.

* Stillingfleet's *Doctrine and Practice of the Church of Rome*, Cunningham's edition, p. 194.

† Taylor's *Spiritual Despotism*, p. 352.

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Fatal effects of the supremacy in matters ecclesiastical, assumed at the Reformation by most of the Protestant states.

quoted from unhesitatingly affirms, that "the breaking out of the Lutheran reformation gave a counter-direction to this movement within the Romish church, and saved the papacy." The circumstance to which he refers in explanation of this startling statement, is the fatal error into which the reformers either blindly fell, or suffered themselves to be driven, of throwing into the hands of the civil authority both "species of church power, namely, the purely spiritual as well as the secular." Properly speaking, there is but one species of church power—that which is purely spiritual. The other, of which this author speaks under the name of secular, is that species of power, it is presumed, which has respect to the management and disposal of the temporal goods of the church. But in so far as such possessions are state property, it is not church power but state power that is entitled to control them. Even in so far as they are private property, they must still be held and administered in accordance with such civil laws, whether common or statute, as are applicable to property so situated; and for this purpose, and to this effect, must always constitute a proper subject of civil jurisdiction. The recognition, therefore, of a right on the part of civil authority to adjudicate on all questions of church property, when limited strictly to the effect of determining to whom the property should belong, was a step in the direction of real reform. It, so far, disentangled civil from ecclesiastical affairs, and did something at least towards putting an end to that confusion of the one with the other upon which the church of Rome had gradually built up its claim to supremacy over both. But when, going beyond this point, the civil power either usurped by violence, or had conceded to it through ignorant inconsideration or tame subserviency, a governing authority in matters spiritual, there can be no doubt that a fatal arrest was put upon the explication of the two jurisdictions; and that the balance

which Rome had cast so far wrong the one way, was cast nearly as far wrong the other. Spiritual despotism on the part of the church over the state, was simply exchanged for erastian despotism on the part of the state over the church. "The advancing tide of opinion was vehemently thrown back: and no choice left to the intelligent portion of the community, but either to hold to the papacy with all its superstitions, or, for the sake of a purer theology and worship, to cast themselves at the feet of the irresponsible, anomalous, and capricious tyranny of kings and queens."*

The Church enslaved by the civil power.

It is not, perhaps, to be greatly wondered at, however much it ought to be lamented, that the reformers in Germany, while struggling to rid themselves of the yoke of popish domination, should have been so little alive to the prospective danger of suffering that domination to pass into the hands of the civil power. The Saxon elector and his protestant associates were in the attitude of withstanding the pope and sheltering the rising cause of the reformation. Fleeing from the thunderbolts launched at her from St. Peter's chair, the reformed church sought refuge behind the thrones of secular princes. It was not that Luther and Melancthon, the leaders in that glorious movement, were insensible to the evils which had resulted from mingling civil with sacred things; but they looked at those evils only on one side. They saw distinctly the enormous oppressions which had grown out of papal intrusion into the province of the civil power; but they failed to anticipate and estimate the deadly injuries that were to ensue from the opposite intrusion of the civil power into the province of the church. The tribute of admiring gratitude which the historian of the reformation pays to their noble efforts, to expel the church from the secular province, is not more just than is the gentle

The Reformation in Germany.

* *Spiritual Despotism*, p. 357.

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admission which he makes of their error, in not guarding with equal jealousy the province of the church from the usurpations of the secular power. "With what wisdom," he observes, "the confessors of Augsburg protest against that confusion of religion and politics which, since the deplorable epoch of Constantine, had changed the kingdom of God into an earthly and carnal institution! Undoubtedly, what the confession stigmatizes with the greatest energy, is the intrusion of the church into the affairs of the state; but can it be thought that it was to approve the intrusion of the state in church affairs? The evil of the middle ages was the having enslaved the state to the church, and the confessors of Augsburg rose like one man to combat it. The evil of the three centuries which have passed away since then, is to have subjected the church to the state; and we may believe that Luther and Melancthon would have found against this disorder thunders no less powerful. What they attack, in a general sense, is the confusion of the two societies; what they demand is their independence, I do not say their separation. If the Augsburg confessors were unwilling that things from above should monopolise those of the earth, they would have been still less willing for things of earth to oppress those from heaven."*

D'Aubigné's explanation of the concession of Church power to the State, made by the German reformers.

The excuse for this blindness or inadvertency was unspeakably less in England. The elector of Saxony, and the most active of his princely confederates, were honestly attached to the great cause of the reformation, and more than once perilled for the preservation of it, not only their dignities, but their lives. It was not surprising if, in their hands, the church's liberties were presumed to be safe; or at least, not wonderful that the question of the right constitution of the church, and its relations to the civil power,

The English Reformers less excusable.

* D'Aubigné's *History of the Reformation*, Blackie and Son's 8vo edition, vol. iii., p. 207.

did not specially engage the attention of the German divines. The case was altogether different with the English reformation. No one pretends that the two sovereigns who had most to do with it, Henry VIII. and Elizabeth, had either an enlightened or disinterested love for the reformed cause. They were influenced mainly by personal and political considerations, and these not unfrequently of the basest and most disreputable kind. "Believe and worship with the monarch to-day, and you might be burned for doing so to-morrow; perhaps by himself, or if not by himself, by his successor. The church, the clergy, and the people trembled in suspense from hour to hour on the changeful whims of the royal theologue. Christendom, hitherto, had seen nothing at once so cruel and so ridiculous as was the usurpation of spiritual authority by the kings and queens of England. The persecutions of the pagan Roman emperors had tried the constancy, but did not rack the consciences, of the sufferers; and the same may be said of the persecutions carried on by the papacy. But the capricious barbarities perpetrated by the English sovereigns of the sixteenth and seventeenth centuries, exhibited spiritual ferocity under the most appalling of its forms; that, namely, which it puts on when, although its savage heart may be known well enough, its will and purpose none can certainly foretell. Those only could be secure whose determination was to veer with the royal faith as steadily as the vane with the wind." *

Personal and political influences which controlled the English Reformation.

Caprice and tyranny of the English sovereigns in Church affairs.

No wonder if this author describes it not simply as the fault, but as what might be called "the *treason* of the fathers of the English reformation," that in circumstances like these, when there was no possibility of being blind to the danger, they surrendered to the monarch that supremacy

English Reformers inexcusable in consenting to the supremacy of the State in all matters and causes ecclesiastical.

* Taylor's *Spiritual Despotism*, pp. 357, 358.

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in matters spiritual which the crown still exercises over the English church. What is here intended, however, is not to determine the amount of blame due to the men who were involved in these transactions. That which alone is contemplated is to arrest attention upon the fact, that the question of what belongs to the proper jurisdiction of the church was not considered by them. The subject of the church's constitution, of the nature and extent of church authority, and of the relation in which the church ought to stand to the civil power, instead of being investigated by the church itself, and decided by an appeal to the word of God, was never formally and deliberately examined at all. It was disposed of summarily and arbitrarily, without the church having either hand or voice in it, by an act of the secular power. The forfeited jurisdiction of the pope was annexed to the crown of the English king, and that was all. "Be it enacted," so ran the decree, "by the authority of this present parliament, that the king, our sovereign lord, his heirs and successors, kings of this realm, shall be taken, accepted, and reputed, the only supreme head on earth of the church of England; and shall have and enjoy, annexed and united to the imperial crown of this realm, as well the title and style thereof as all honours, dignities, immunities, profits, and commodities to the said dignity of supreme head of the said church belonging and appertaining; and that our sovereign lord, his heirs and successors, kings of this realm, shall have full power and authority to visit, repress, redress, reform, order, correct, restrain, and amend all such errors, heresies, abuses, contempts, and enormities, whatsoever they be, which by any manner of spiritual authority or jurisdiction ought or may be lawfully reformed, repressed, ordered, redressed, restrained, or amended, most to the pleasure of Almighty God, and increase of virtue in Christ's religion, and for the conservation

Act of Henry VIII. attaching the forfeited jurisdiction of the Pope to the English crown.

of peace, unity, and tranquillity of this realm, any usage, custom, foreign law, foreign authority, prescription, or any thing or things to the contrary notwithstanding."* If the pope could have made good his impious claim to infallibility, such a supremacy in his person would have been natural and just. But to vest that supremacy in a civil ruler, who made no pretensions to infallibility, and who had no office in the church whatever,—as it had no other warrant but arrogance and despotism at the period of the reformation, so nothing but the power of habit and hereditary prejudice could have blinded men to its utterly untenable and mischievous principles in after times. That it proved a fatal barrier to the progress of the reformation is too notorious to be called in question. It converted the struggle for divine truth and christian liberty, in which the reformation began, into a mere carnal contest for power between a profligate monarch and a presumptuous priest. Shall the strings be pulled in the Vatican or at Windsor? In either case, the church of England must be deprived of self-regulating power. She must rise as far up towards the dawning light of the reformation, or sink down as far into mediæval darkness; advance in the direction of protestantism, or go back in the direction of papal error and corruption, as the external power which controlled her might be pleased to ordain or to allow. And hence not only was conscience outraged often as grievously as before, but the very name

The royal supremacy, in matters spiritual, indefensible and pernicious.

* Neale's *History of the Puritans*, vol. i. pp. 10, 11. In the Hampden case—the Queen *versus* the Archbishop of Canterbury, (1848)—the identity of the Queen's supremacy over the Church of England with that formerly possessed by the Pope, was thus explicitly affirmed by the law officers of the Crown. The Attorney-General said: "By the statute of Henry VIII., the Crown stands in the place of the Pope; and the Crown can do now what the Pope could do before." To the same effect spoke the Solicitor-General: "He should show, that whatever pre-eminence the Pope had, and whatever right or power he had, became by that statute (the statute of Henry VIII.) the power of the King."

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of religion was dishonoured by the grossest inconsistencies; the very same men who, in deference to Henry's usurped supremacy, abjured the pope to-day, almost with one consent offering him their allegiance to-morrow, when a popish queen had ascended the throne. Although not more than seven or eight peers opposed the laws made in favour of the reformation in the time of Edward VI., there were hardly any of them who did not join in restoring Romanism, when the crown was found once more on the head of a popish sovereign. There cannot be a doubt that these wholesale tergiversations, which disgrace the history of the English reformation, were mainly the result of the royal supremacy in matters spiritual. The necessary effect of that supremacy was to give in England both a secular and a superficial character to the whole reformation movement. It is not by an influence external and worldly, but by an influence internal and spiritual, that any church can be really and thoroughly reformed. My kingdom, said Christ, is within you; and as it is that inner life, that hidden man of the heart, which moulds the outward conduct, and conforms the entire walk and conversation of the individual believer to the divine rule; so it is in the case of the collective body of the church. Like the forest oak, which attains its gigantic stature and acquires its majestic form in virtue of energies which operate within, the church is in the best condition for developing the divine model, when, uncramped and unobstructed by any external force, it is left to grow up into Him who is the Head, yielding freely to the guidance and government of those vital energies derived from His own word and spirit, which he has hidden in its bosom. There is something indeed which external power may do for the church,—as there is something it may do even for the monarch of the woods. It may shield it from outward violence and make provision for its unimpeded growth; but

Disastrous consequences to religion, and to the Church of England, which resulted from the usurpations of the State.

The Church can be truly reformed only by influences internal and spiritual—not external and worldly.

when, going beyond this limit, the civil power will bind it with the ligatures of state control, or bend it into subjection to state authority, or prune it into accordance with state caprice or policy,—the church, so dealt with, cannot fail to prove a stunted and deformed thing, deprived of its moral beauty, and shorn of its spiritual strength.

The Swiss Reformation.

In Switzerland, though the course and character of the reformation were in many respects widely dissimilar, the result was nearly the same. There also state supremacy became the order of the day. Among the great men whose labours were chiefly instrumental in liberating so many of the Swiss cantons from the yoke of Rome, there were at least a few who foresaw the danger of compromising the church's freedom. "The magistrate," exclaimed Œcolampadius in a letter to Zwingle, "who should take away from the churches the authority that belongs to them, would be more intolerable than antichrist himself. * * * The hand of the magistrate strikes with the sword, but the hand of Christ heals. Christ has not said, If thy brother will not hear thee, tell it to the magistrate, but *tell it to the church.* The functions of the state are distinct from those of the church." * The views thus indicated, this enlightened and apostolic man laboured to impress both on his brethren in the ministry and on the civil authorities themselves. Before the senate of Basle and before a synodal assembly of the church, he expressed them at large, nor were his efforts without some partial and temporary success. Even Zwingle himself appeared for a moment to regard them with favour; but unhappily this distinguished reformer, the master-spirit of the Swiss reformation, had already advanced too far on a career which was not only more congenial to his own character, but from which it was already impossible to

Œcolampadius remonstrates against the civil supremacy.

* D'Aubigné's *History of the Reformation*, Blackie and Son's 8vo edition, vol. iii., p. 430.

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Secular and spiritual things too much confounded in the career of Zwingle.

extricate the protestant cause. To save that cause, now menaced with so many perils, he had thrown himself "into the footsteps of Demosthenes and Cato, rather than into those of St. John and St. Paul;" and combining in his own personal proceedings the heterogeneous elements of the reformer and the magistrate,—of the minister of Christ and the military leader,—no wonder if he became blind to the incongruity, and to the injury, of blending in the state, spiritual with secular power. Amid those political combinations and martial conflicts in which the cause of the reformation in Switzerland was thus so early and so extensively involved, all questions as to the proper constitution of the church of Christ and its relations to the civil authority were disregarded and forgotten. And the bitter fruits of that subjection to secular control, to which, three centuries ago, they for the most part blindly yielded, the Swiss churches continue to reap, in mournful and fatal abundance, to the present hour.

The Reformation in France, and the causes which hindered its development.

In regard to the reformed church of France, it seems enough to observe, that it never was in circumstances, either to develop or to establish its views on the question now under consideration. So far indeed as these views are indicated in her confession of faith, adopted in 1559, they are in perfect harmony with those which are set forth in the preceding chapter of this work. After describing the true church as consisting of "an assembly of believers who agree among themselves to follow God's word," it is added, "we believe that this true church ought to be governed by that discipline which our Lord Jesus hath established," and further they affirm that the power of the church governors is held under Him, "the only Head, the only Sovereign, the only Bishop;" and finally, they declare it to be the duty of all "to keep and maintain the unity of the church, submitting themselves unto the common instruction and to

the yoke of Jesus Christ, and this in all places wheresoever he shall have established the true discipline, although the edicts of earthly magistrates be contrary thereunto." * Already in 1571, when the illustrious Theodore Beza was moderator of their general assembly, he could number in their communion more than two thousand congregations, many of which were so large as to have, some of them two, and some of them even five ministers set over them. But the bloody and inhuman massacre of St. Bartholemew which took place in the succeeding year, together with the relentless persecution that followed it, left the reformed church of France in no condition to adjust its relations with the civil power. And although something like toleration was subsequently conceded to it by the edict of Nantes in 1596, even that protective statute dealt with it in the spirit of lordship and oppression, subjecting it to many harassing restrictions. Limited as was the range of freedom which the edict allowed, it was not maintained. By a succession of encroachments, the edict was in great measure nullified, and in the end it was revoked altogether. The consequent exile of half a million of the adherents of the reformed cause, together with the ceaseless cruelties practised on those who remained behind, left the protestant church of France the mere shadow of its former self. Nor has the tyranny of the oppressor ceased. It continues to this hour enslaved. Its whole constitution and government have become a matter of state regulation. It is tolerated and even salaried by the civil authorities, but at the expense of the most rigid and ruinous subjection to secular control.

Massacre of St. Bartholomew, and subsequent persecutions.

Entire subjection of French Protestant church to the civil power.

Without tracing the steps by which the reformed church of Holland has been reduced to a state of similar bondage, or going further into the subject, it will probably be thought

Dutch church controlled by the civil power.

* French Confession, articles xxvii., xxix., xxx., xxvi., pp. 18–20 of Lorimer's *Reformed Church of France.*

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that enough has been said to justify the assertion that not by any reformed church out of Scotland was the doctrine of Christ's Headship thoroughly investigated, or brought to bear deliberately and systematically on the framing of its own constitution, or on the adjustment of its relations with the civil power. To any one who gives a careful and candid attention to the subject, it can hardly fail to appear, that the supremacy of the state in all causes, ecclesiastical as well as civil, was almost everywhere either blindly conceded by the church or usurped, without consulting the church at all, by the secular government. And that in this fact is to be found the true explanation of the circumstance already noticed, as on the first view of it fitted to excite surprise, that the question of the church's independence, which holds so conspicuous a place in the history of Scotland, should have been comparatively so little agitated out of this northern kingdom.

The Scottish Reformation different from all others, as regards the relation of Church and State.

The whole history of the reformation in Scotland, and especially as regards the mutual relations of church and state, was altogether peculiar. It is impossible to pass into this new field from the study of the corresponding period and events as connected with England and the continent of Europe, without having such a conviction immediately and irresistibly forced upon the mind. And because of this difference, or at least because of some of the circumstances which produced it, attempts have been often made, and not always unsuccessfully, to awaken prejudices against both the movers and the principles of the Scottish reformation. To those whose shrinking and feminine sensibilities recoil from the very sound of collision, or whose notions of ecclesiastical order and propriety are all associated with the system of civil supremacy, there may be something distasteful and repulsive in the sternness with which Knox, and his coadjutors and successors, withstood every attempt to subject

their noble cause to the maxims and the management of worldly politicians. To offend a queen, and she too the beautiful Mary Stuart,—to place themselves in conflict with courts and princes,—and to be, in consequence, the occasion of frequent and violent discussions, commotions, and strifes, is far more than enough, in the judgment of a certain class of minds, to discredit the whole Scottish reformation. With such persons, accordingly, it is no uncommon thing to represent it as a mere popular tumult, a movement altogether disorderly and irregular, and savouring much more of a rebellion than of a religious reform. This, however, is not the estimate formed by those who are accustomed to venerate the apostolic maxim that God is to be obeyed rather than man. Men who understand the great principle that "God alone is Lord of the conscience, and hath left it free from the doctrines and commandments of men, which are in anything contrary to His word, or beside it in matters of faith and worship,"* and who have been taught to recognize in this principle the only solid foundation of either civil or religious liberty, know better how to appreciate the disinterested and self-denying struggles of the Scottish Reformers. It was their peculiar distinction and their singular honour to assert the principle above described, as that which must regulate their whole proceedings in reforming the religion and constituting the church of their native land. "To the law and to the testimony," was their unbending rule: and they shrank from no consequences which their adherence to it might involve. Nor can any enlightened and dispassionate student of their lives and labours hesitate to allow, that to the christian constancy and masculine energy of character with which they stood their ground, are to be traced many of the most important privileges and institu-

Characteristic principle of the Scottish Reformation.

* *Westminster Confession of Faith*, chap. xx.

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tions, social, political, and religious, which their descendants enjoy. 1528 to 1560.

First struggle of the Scottish Reformers was with the Church of Rome.

From the martyrdom of Patrick Hamilton, the disciple of Luther, in 1528, to the withdrawal of the national sanction from popery, in 1560, the contest of the reformers in Scotland was directly and mainly with the principles and the power of the church of Rome. They came into collision with the civil authorities only in so far as these were enlisted, and that chiefly by French influence, on the side of Rome, in attempts to put down the reformed cause. During this period too, it was doctrine rather than discipline that, for the most part, and necessarily, formed the subject of discussion between them and their opponents. In Scotland, as in Germany and everywhere else, the grand doctrine of justification by faith alone in the righteousness of Christ, the *articulus stantis vel cadentis ecclesiæ*, took the lead in the warfare with that apostate church which had so long, by its errors and corruptions, made merchandise of the souls of men. To proclaim and establish the gospel way of a sinner's acceptance with God was their first and fundamental duty; and to this they accordingly addressed themselves with an earnestness and assiduity, not surpassed, certainly, in any other part of the world. But even in this first step of their great work, they were only giving effect to the same principle which they carried along with them to the close of their reforming career. It was not because Luther and Melancthon had taught, at Wittemberg, the doctrine of salvation by grace through faith, that Patrick Hamilton preached it and died for it in Scotland. It was because God had taught it in his Word. The Bible was the grand discovery and the glorious acquisition which that noble and devoted youth had made in Germany. And this only infallible rule of faith and manners became thenceforward the authoritative guide of the Scottish reformation. From Christ's pretended vicar

The Bible was the rule of the Scottish Reformers.

1560. speaking in and by the church, Hamilton, Wishart, and Knox made their appeal to Christ himself, speaking in and by the Word. And as Luther, at Worms, with his back against that living Rock, stood, like a stag at bay, in the presence of his powerful enemies, answering every attempt to move him from his ground with the simple but sublime reply, "Here I stand—I can do no otherwise—help me God!"—so stood the Scottish reformers from the beginning to the end of their arduous struggle. The same footing which they found so sure, and which they felt themselves bound so resolutely to maintain, as against the corruptions of the papacy, they could not consent to yield, at a later stage of their testimony, to the usurpations of the civil power.

Events of the year 1560.

In approaching the transactions of 1560, the peculiarities which distinguish the Scottish reformation begin to come strongly into view. Popery and the government which supported it had fallen together; and the estates of parliament, into whose hands the supreme power in that great crisis of the nation's history had come, were decidedly favourable to the reformed cause. But there was not, on this account, any surrender made to them of things ecclesiastical. A jurisdiction *circa sacra* the reformers not only conceded to them, but called on them to exercise; but *in sacris* neither then nor subsequently, was any jurisdiction ever conceded to them at all. Knox and his enlightened and able associates were clear and decided as to these two things:—first, that no state can, without grievous sin, lend its countenance to the Roman antichrist, or to any false religion whatsoever; and, second, that every state is bound to embrace, acknowledge, and encourage the true religion. Proceeding on the former of these principles, they called on the Scottish legislature to withdraw the national sanction from the church of Rome, pointing out the leading heresies and corruptions with which

Scottish Reformers conceded to the State a jurisdiction *circa sacra*, but not *in sacris*.

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that church was chargeable, and undertaking to make good their accusations against it by an appeal to the Word of God. And when invited by parliament to frame a scriptural summary of doctrine, they at once entered on, and promptly executed the task.* In submitting that summary of the Protestant faith to the solemn and deliberate consideration of the estates, and in seeking to have it publicly recognized, they gave unequivocal expression to the *latter* of the two principles above alluded to; viz., that the civil power is bound to receive and to own the truth of God. 1560.

Distinction recognised and preserved from the beginning, between the province of the State and that of the Church.

In none of these proceedings, however, was there any confounding of the province of the state with the province of the church. At that eventful period, both the state and the church may be said to have been thrown back on the great fundamental principle—*salus populi, suprema lex.* And at such a moment of comparative disorganization, it would have been no strange thing if powers had been assumed on the one side, and allowed on the other, not altogether consistent with the mutual independence of the parties concerned. It is, therefore, all the more remarkable, that not even in circumstances so unusual did the church lose sight of her distinctive character and claims, or suffer the line of demarcation which divides her domain from that of the civil power to be obliterated or forgotten. Although cast by the course of events so closely together, and forming, in some respects, one and the same party—the party of the reformation—the identity of each was, notwithstanding, preserved and realized. In laying their views before the estates of parliament, the reformers appeared avowedly for the church of Christ. It was as men "professing the Lord Jesus within the realm" that they urged their complaint against the church of Rome, and undertook

Character in which the Reformers first approached the civil power.

* Calderwood, vol. ii., pp. 13–15, Wod. Soc. Ed.

1560. to confute its heresies and expose its corruptions, by bringing them to the standard of scripture. As occupying that position, they were called on by parliament "to draw, in plaine and severall heads, the summe of that doctrine which they would mainteane and desire the parliament to establish."* And thus, while it was left to spiritual men, as such, to propound the truth, the legislature held itself entitled and bound to exercise its own independent judgment upon what might be thus submitted for its consideration. As it would not usurp the functions of the church by framing a confession of faith—so neither, on the other hand, would it renounce its own liberty and duty, for the regulation of its own conduct, to judge of that confession when it should be actually produced.

The State did not frame a confession for the Church; but when framed by the Church, the State claimed a right to judge of it for itself.

With regard to the views of the reformers as expressed in this, their confession of faith, it deserves to be noted that little or nothing is said in it on the subject of the relations of church and state. In Scotland, as everywhere else, at the period of the reformation, the duty of the state to own and uphold the true religion was looked upon as a first principle, which did not require, and hardly admitted of discussion. Little attention, accordingly, was given, at the outset, to this most important subject. The existing enemy was not the state, but the papacy: and the reformers were unavoidably and naturally so busy, here, as well as in England and on the continent, in exposing the errors and guarding their cause against the assaults of that perfidious and soul-destroying system, that the question of the state's powers and prerogatives in relation to the church, hardly obtained their consideration at all. The injurious results to which this led in other countries have been already noticed, and but for the kindness of an overruling providence, the

* Calderwood, vol. ii., p. 13.

CHAP. II. consequences might have been the same in Scotland too. 1560.

Events in providence which favoured, in Scotland, the study and settlement of the right relations of Church and State.

Although the Scottish reformers had not been led, in the first instance, any more than their contemporaries elsewhere, to study and define the exact nature and limits, respectively, of civil and ecclesiastical jurisdiction, events had placed them in a more favourable position for doing so when the necessity arose. There was in their case no Henry VIII. to bear down truth by force, and to trample the claims of conscience under the iron heel of despotic power. The tide, broad and deep, on which the Scottish reformation rose, swept away, at the same moment, ecclesiastical and civil tyranny together. And although the majority of the Scottish parliament had perhaps no real sympathy with vital godliness, and no desire to see a thoroughly-reformed church established in the land, they could not, like the English monarch, give effect to their own absolute and arbitrary will. The same movement which had elevated them to power had created a public opinion, and surrounded them with influences which they durst not altogether disregard. They had as much of the inclination to interfere with the church's progress and freedom as to put the reformers on their guard; but they had not the power to hinder the questions which they thus raised from being publicly and vigorously debated. It was, under God, mainly to this circumstance that Scotland and the church of Christ were indebted, for the only great effort that has ever yet been made to adjust, practically and on a scriptural basis, the mutual relations of the civil and ecclesiastical power.

The civil authorities jealous of the Church's freedom, but not in circumstances to put it down.

The result of the appeal made by the reformers to the estates of parliament, in 1560, was the abolition of the papal jurisdiction in Scotland. All acts in favour of the church of Rome, and against the protestant faith, were annulled; and at the same time, the summary of christian truth, embodied in the confession prepared by the reformers, was

ratified and approved. But, while it is important to mark what was done on this memorable occasion by the Scottish legislature, it is not less important, in reference to the subject of this work, to observe what was *not* done. The nation shook itself clear of the papal see. It renounced all connection with the church of Rome. It proclaimed the distinguishing principles and whole system of that church to be false and oppressive. And further, it gave its testimony in support of the doctrines of the reformation. But at this stage it did nothing more. It did not, as in England, attach to the civil power the jurisdiction taken from the pope. It assumed no authority in matters ecclesiastical. The reformed church was left to organize herself by her own internal energies and inherent authority. What ought to be the form of her government,—where the governing authority should reside—what should be the limits of her jurisdiction—in what relation it should stand to the civil power?—were questions on which the estates of parliament were wholly and absolutely silent. As regards their acts in abolishing popery, and in giving their assent to the summary of doctrine embodied in the confession of faith, the light in which these legislative proceedings were viewed by the reformers, may be sufficiently gathered from a remark made by Knox at the time. In the account he gives of the sending of the acts in favour of the reformation to France, to be laid before Queen Mary and her husband, he takes occasion to say, "All that we did was rather to show our dutiful obedience than to beg of them any strength to our religion, which from God has full power, and needeth not the suffrage of man, but in so far as man has need to believe it, if that ever he shall have participation of the life everlasting."*

The importance of marking what was *not* done by the State in Scotland, at the period of the Reformation.

Knox's view of the State's power in matters spiritual.

* Knox's *History of the Reformation*, Blackie and Son's edition, by M'Gavin, p. 222.

CHAP. III.

CHURCH AND STATE IN SCOTLAND—FROM THE REFORMATION TO THE REVOLUTION.

CHAP. III.

1560 to 1567

Disagreement between the more worldly and the more spiritual adherents of the Reformation.

AT the period now in question, the national sanction had been withdrawn from popery, and the Scottish legislature had professed its faith in the doctrines of the reformation. Beyond this nothing whatever had been done by the civil power. Meanwhile the reformers continued to urge upon the estates the necessity and duty of proceeding to establish the reformed church; and at this point it was that the iron and the clay, which had hitherto been blended together, began to fall asunder. The sincere and spiritual men in parliament were disposed to listen to the church's call for state countenance and support in framing a constitution and setting up her discipline; but the worldly and merely political adherents of the reformed cause, had no mind to adopt any course that would involve either the surrender of the spoils they might secure by the overthrow of the church of Rome, or the recognition of a power that might rebuke their cupidity, and withstand their schemes of selfish aggrandizement. The parliament, accordingly, broke up without taking any steps in this direction at all. Soon after, however, the privy council so far deferred to the urgent representations of the reformers, as to give to Knox, and certain other ministers, a commission to prepare on the part of the church, not yet fully organized, a system of ecclesiastical government. This act implied, that the civil government were willing to entertain the proposal of establishing the reformed church, and that they recognized Knox and his coadjutors as competent representatives of the

The privy council agrees to the preparation, by the Church, of a system of ecclesiastical government.

1560 to 1567. church, in making these preliminary arrangements. The document which was drawn up in consequence, was that which is commonly known by the name of the first book of discipline. It was framed under the immediate direction and authority of the church, acting thus early as a distinct and independent body. The desire of Knox and his fellow-labourers, seems evidently to have been to carry the state along with them in developing the principles and consolidating the cause of the reformation. In these primary stages of their great movement, it is probable they had not thoroughly considered and determined the precise footing on which the church's relations with the civil power ought to be placed. Having no doubt whatever as to the duty of the state to recognize and uphold the true church of Christ, their anxiety appears to have been to get this done without delay, and in this way to provide a more effectual barrier against the restoration of popery. It had not occurred to them as yet to be jealous of the state itself. Its disposition to usurp authority over the church had not hitherto found occasion to come forth in any form that could excite their alarm. But while the reformers were, for this reason, entirely unsuspecting in their intercourse with the legislature and the government, and may seem to have been putting themselves too much into the hands of the civil power, they never for a moment dreamt of doing anything that could compromise the church's freedom, or imply any want of competency on the part of the church, by her intrinsic authority, to adjust her own constitution, and to regulate her own affairs. It was, accordingly, in the exercise of that inherent authority, the first general assembly of the reformed church was held in the month of December, 1560. It was in the character, not of parties holding a commission from the government, but in that of members of the supreme ecclesiastical court, that Knox and his coadjutors prepared

Reformers, at this period, had no suspicion of State interference with the liberties of the Church.

CHAP. III.

First Book of Discipline drawn up by General Assembly.

the book of discipline. And furthermore, it was as the deliberately approved and adopted standard of the church, framed by and for herself, that it was subsequently laid before the great council of Scotland. "When the ministers did putt their hands to work, the assemblie of the kirk laid some heads of the policie of the kirk upon everie man who was thought meetest for the same: and after they have given in their travells to be considered by the brethren, they were either approven in that whilk they had done, or else their inlaiks (deficiencies) were supplied or doubts opened up to them, that they might sett down the head appointed to them more perfitelie, whilk by great pains, much reading, prayer and meditation, earnestly in-calling the name of God, in end was finished, and by the allowance and approbation of the whole general assemblie; after that, some articles that were thought too long were abridged. The whole policie of the kirk was putt in writ in a book, and presented to the nobilitie and great council of the realme in the end of the same year."* As illustrative of the church's own views of the obligation of the church on the one hand, and of the state on the other, to be guided exclusively by the word of God in this whole matter, and of the consequent right and duty of both to form an independent judgment regarding it, the following sentences from the address to the council, prefixed to the first book of discipline, are not unimportant:—

1560 to 1567

Address to the council of State prefixed to First Book of Discipline.

"For as we will not bind your honours to our judgments, further than we are able to prove by God's plain scripture: so must we most humbly crave of you, even as ye will answer in God's presence, before whom both ye and we must appear to render account of all our actions, that ye repudiate nothing for pleasure and affection of men, which ye are not able to disprove by God's written and revealed word."

* Row's *History*, p. 16.

1560 to 1567. In this standard the church laid down clearly and broadly the platform of presbyterian government, and enunciated at the same time, distinctly and unequivocally, the doctrine, that "it appertaineth to the people and to every several congregation to elect their own minister." The rules which it prescribed for the exercise of church discipline proceeded on the scriptural footing of having no respect of persons—declaring as it did that "all the estates within the realm must be subject, as well the rulers as they that are ruled; yea, and the preachers themselves, as well as the poorest in the kirk." The plan which it sketched for the application of the ecclesiastical revenues was distinguished by the truest wisdom and the most enlightened benevolence. It provided not merely for the maintenance of a gospel ministry and for the support of the poor, but also for a noble and most comprehensive scheme of national education.

Principles of First Book of Discipline.

It is at this point the student of history, who is accustomed, amid the seeming chaos of human affairs, to mark the leadings and to note the current of an over-ruling providence, will observe the commencement of that course of training by which the Scottish reformers were gradually, but thoroughly, prepared for the new conflict that was awaiting them and their cause. Their struggle of thirty-two years with Rome had schooled them into a complete understanding of all those questions which relate to evangelical doctrine and to the internal economy of the church of Christ. By a somewhat singular coincidence it proved to be, by a struggle of exactly similar duration, they were subsequently exercised, on the great scripture principles which go to regulate the connection of church and state. From the martyrdom of Patrick Hamilton in 1528, till the abolition of popery in 1560, they were engaged in a ceaseless struggle with the errors and corruptions of Romanism. From the latter period till the passing of the celebrated

The twofold conflict of the Reformers—first with Popery—second with Erastianism.

CHAP. III. statute of 1592, they had to maintain a contest not less strenuous and severe against the erastian encroachments and usurpations of the civil power. And nothing can serve more clearly to show the need there was that the reformers should be subjected to this preparatory, though painful, process of practical instruction, than the first book of discipline itself. Full and explicit as that standard is, on almost everything that belongs to the being and ordinary administration of a church of Christ, it is all but silent on the mutual relations of the church and the commonwealth. The refusal of the privy council to sanction the book of policy which the church had prepared, gave to the reformers the first distinct intimation of the approaching contest. That refusal did not arise from any difference of opinion as to the form of ecclesiastical government which the book of policy laid down, but solely from aversion to the strict and impartial discipline which it appointed to be exercised against vice, and to the truly enlightened and patriotic plans which it suggested as to the future appropriation of the forfeited revenues of the church of Rome.* It was the carnal spirit of the world taking alarm at the rise of a really spiritual church—a church that seemed to be determined to know no man after the flesh, but to seek with a single eye the interests of truth and righteousness.

1560 to 1567

Privy council refuse to sanction First Book of Policy; and the reasons of that refusal.

Queen Mary returns to Scotland, and the breach widens between the politicians and the Church.

The return of Queen Mary to her native kingdom about the close of the year 1561, tended greatly to encourage and strengthen the resistance which the reformers had already begun to experience. With a church constituted and governed according to the thorough-going principles propounded in the first book of discipline, Mary and her advisers could not fail to perceive there could be no hope for popery. If the deep-laid schemes of her French kinsmen, the Duke of

* M'Crie's *Life of Knox*, vol. ii., p. 5.

1560 to 1567. Guise and the Cardinal of Lorraine, for the restoration of the old superstition, were to triumph, it must be upon the ruins of the church which Knox and his coadjutors were engaged in founding. The court became, accordingly, the rallying point of their opponents. The selfishness and secularity of many of the original promoters of the reformation fell in, easily enough, with the deeper and more dangerous designs which the queen entertained. "The courtiers," Knox tells us, "drew unto themselves some of the lords and would not convene with their brethren, as before they were accustomed, but kept themselves to the abbey."* A conference, however, at length took place, of which some singularly graphic notes have been preserved by Knox himself. In that conference the germ of the whole controversy on which the church was entering, distinctly appears. "The reasoning was sharp and quick on either side. The queen's faction alleged that it was suspicious to princes, that subjects should assemble themselves and keep conventions without their knowledge. It was answered, that without the knowledge of the prince the kirk did nothing, for the prince perfectly understood that within that realm there was a reformed kirk, and that they had their orders and their appointed times of convention. And so without knowledge of the prince they did nothing." "Yea, said Lethington,† the queen knew and knows well enough; but the question is, whether the queen allows such conventions." It was answered, that if the liberty of the kirk stood, or should stand, upon the queen's allowance, we are assured not only to lack assemblies but also to lack the liberty of the public preaching of the evangel—that affirmation was marked and the contrary affirmed. "Well, said the other,

Knox's account of the Conference between the courtiers and the Reformers.

* M'Crie's *Life of Knox*, vol. ii., p. 3, foot-note: the Abbey of Holyrood was then the residence of the court.

† Maitland of Lethington, the queen's secretary.

CHAP. III. Knox, viz., time will try the truth; but to my former words this will I add; take from us the freedom of assemblies, and take from us the evangel: for without assemblies how shall good order and unity of doctrine be kept." * * * * "Hereafter," continues the narrator, himself a principal actor in the scene, "was the book of discipline proposed and desired to have been ratified by the queen's majesty: that was scripped (scoffed) at, and the question was demanded —How many of those that subscribed that book would be subject unto it? It was answered, 'all the godly.' Will the duke? said Lethington. If he will not, answered the Lord Ochiltree, I would he were scraped, not only out of that book, but of our number and company: for to what purpose shall labour be taken to put the kirk in order, and to what end shall men subscribe, and then never mean to keep word of that which they promise? Lethington answered, 'Many subscribed them *in fide parentum*, as the children are baptized;' one, to wit John Knox, answered, 'Albeit ye think that scoff proper, yet as it is most untrue, so it is most improper. That book was read in public audience, and by the space of divers days the heads thereof were reasoned, as all that here sit know well enough, and ye yourselves cannot deny: so that no man was required to subscribe that which he understood not.' 'Stand content,' said one, 'that book will not be obtained.' Let God, said the other, require the lack, which this poor commonwealth shall have of the things therein contained, from the hands of such as stop the same."* 1560 to 1567.

The independence of the Church was the subject of the Conference.

These brief memoranda of that significant discussion, sufficiently show how well both parties understood the real question at issue between them. The independence of the church in matters spiritual, her inherent right to regulate

* Knox's *History of the Reformation*, M'Gavin's edition, p. 257.

1560 to 1567. and administer the affairs of her own province, free from the control of the civil authority, was plainly the question of the conference. Nor is it uninteresting or unimportant to mark the clear distinction which thus early the reformers had learned to draw, between the right of the civil authorities to be cognizant of the church's proceedings, and the right to dictate what these proceedings should be. To concede the former, was only to allow to the state its legitimate prerogative. To refuse the latter, was simply to deny to Cæsar the things of God. The church of Christ has nothing to conceal: it is both her interest and her duty to court the observation of all men. As "a city set on an hill," she was never meant to be hid: as "the light of the world," her great business is, so to let her light shine before men, that seeing her good works they may glorify God. It consorts well, indeed, with the mystery and the machinations characteristic of the church of Rome, to have her secret conclaves into which the eye of the state is not suffered to intrude. How strange that states should so often be found less jealous of a church which thus defies their scrutiny, and is continually plotting in secret against them, than of such a church as that which, three hundred years ago, was struggling into existence under the frown of the Scottish government.

Church and State remained apart from one another.

The refusal on the part of the civil authority to ratify the constitution of the church, was precisely such an event as was best fitted to bring out clearly into view the relative position in which these two parties conceived themselves to stand towards one another. It forms one of those luminous points which shed a strong and steady light upon the mazes of our ecclesiastical history. When the privy council withheld their sanction from the standard of policy the church had framed, did they claim a right to substitute another in its room, and to force it on the acceptance of the church?

CHAP. III.

Or, on the other hand, did the church consider her own act in framing a system of policy for her own government so inept and incomplete, as to be dependent for its validity on the ratification of the civil power? Neither supposition finds a vestige of support in history; or, rather, history emphatically contradicts them both. The civil power limited itself strictly to the withholding of its sanction from the church's deed. The church, on the other hand, hesitated not an instant as to her perfect competency to proceed, independently of state sanction altogether. In other words, their bearing towards one another was that of two co-ordinate and mutually independent bodies; each entitled to have its own judgment on every question touching an alliance between them; but neither entitled to dictate the terms of that alliance authoritatively to the other. And what, accordingly, took place on the occasion to which reference has now been made? The state simply remained apart from the church; withholding from her that countenance, and those immunities, which it belongs to the civil power to confer. But while the church was thus, for the time, denied a civil establishment, she went on without a moment's pause to organize herself as a spiritual institution, by virtue of her own inherent authority alone. Nor was this period of separate action either so brief or so unimportant as to leave to the two parties concerned no opportunity practically to follow out this theory. The period embraced seven years; and in the course of it the church held at least fifteen meetings of her supreme court, her general assembly; and exercised, and that in the gravest matters, all the functions, legislative, judicial, and administrative, which belong to the christian church. It was during this period she recognized and sanctioned the office of ruling elder—originated kirk sessions, for the spiritual oversight of particular congregations—and appointed provincial synods; thus filling up and maturing

1560 to 1567.

Church proceeds upon her own inherent authority.

Reformed Church continued unestablished for seven years.

1560 to 1567. the mechanism of her presbyterian government. Nor was the church less resolute in enforcing than in framing her laws. Her discipline was put in rigorous and impartial operation against all offenders within her pale; suspending and deposing unfaithful ministers, and expelling from her communion unworthy members. Nor were these things done in a corner. Her censures fell with as unsparing strictness on those who were high in place and power, as on the humblest of the people. And so far from being afraid to confront the state, whose sanction was still withheld from her constitution, scarcely one of her assemblies passed without making some formal communication to the governing authorities of the kingdom,—now complaining of the countenance given by the queen and council to popery, now urging the settlement of important questions of jurisdiction, of the reparation of kirks, of the support of the ministry—in a word, conducting her proceedings with all the openness and fearless intrepidity of conscious rectitude and independent authority.

Impartiality and vigour of the Church's Discipline.

But while these proceedings cannot but be regarded as sufficiently decisive as to the church's own views of her intrinsic authority in matters spiritual, an important question remains,—Was her judgment on that fundamental question acquiesced in by the state at the era of her civil establishment? The state did not intermeddle with the jurisdiction which the church assumed and exercised prior to their union; but what occurred when their union actually took place? Did the church receive her establishment on the footing of a surrender of her self-governing power? Was this the price paid for state alliance and support? Did she become, to use a modern phrase, "the creature of the state," possessing only a delegated jurisdiction, and that too defined, measured, and regulated by an order of the queen and council, or by act of parliament? The bearing

On what terms did the Church receive her establishment?

CHAP. III. of this question on the recent conflict must be at once apparent; and for the answer to it, nothing is needed but a simple reference to the facts of history. 1560 to 1567

Proceedings of the State in establishing the Church.

In the month of December, 1567, the parliament of Scotland at length resumed the consideration of ecclesiastical affairs, and adopted those measures which brought the church into immediate connection with the state. Having first re-enacted those memorable statutes of 1560, by which the papal jurisdiction had been abolished, the national sanction withdrawn from the church of Rome, and the doctrines of the reformation approved—by which, in a word, Scotland had formally, and in its national capacity, renounced the Romish and adopted the Protestant faith—the parliament proceeded to take direct cognisance of the reformed church. "The ministers of the blessed evangel of Jesus Christ, whom God of his mercy has now raised up among us," and * * "the people of this realm that professes Christ as He now is offered in His evangel, and do communicate with the holy sacraments according to the confession of the faith," were declared "to be the only true and holy kirk of Jesus Christ within this realm."

The State recognised the Church as an existing institution, and as having inherent power.

That is to say, the church which, for seven years, had been going on in the exercise of its own divinely derived and independent authority, framing its constitution, making and enforcing its laws, was hereby formally recognised, not as now *becoming*, by virtue of this imprimatur of the civil power, but as being, by virtue of what was inherent in itself, the "true church" of Christ. Furthermore, in an act of the same parliament, "anent the jurisdiction justly appertaining to the true kirk," it was held "to consist and stand in the preaching of the true word of Jesus Christ, correction of manners, and administration of holy sacraments," and this jurisdiction the act accordingly "declares and grants." The state thereby affirming and pledging itself to respect

1560 to 1567. and uphold that jurisdiction, not as a jurisdiction now, by civil authority, bestowed upon the church, but as "justly appertaining to it." And to make this legislative recognition and pledge more explicit, the same act declares "that there be no other jurisdiction ecclesiastical acknowledged within this realm, other than what is and shall be within the same kirk, or that flows therefrom, concerning the premises."

There are, however, ordinarily two steps in the process of erecting a church establishment. The first and the fundamental one is, that of pointing out and defining the church which the state designs to acknowledge and countenance. The second is, that of endowing it: of providing, in other words, the requisite means for the temporal support of those who are to dispense its ordinances. It has been common to assume that from this second step, the subjection of the spiritual to the secular power is inseparable. It has been even very confidently maintained, that any state would be guilty of a gross dereliction of duty which did not make the subjection of the church to state control the *quid pro quo*,—the acknowledged price of her endowment. What we have here to do with indeed, is not the question,—what the Scottish legislature ought to have done,—but what it actually did, in establishing the reformed church. On that other question it would seem to be enough, in passing, to observe, that if it be the right and duty of the state, in certain circumstances, to endow the church of Christ, the church must be entitled to enjoy that endowment on terms consistent with her true and unqualified allegiance to her only Head and Lord. And if allegiance to Him implies and requires unfettered liberty to execute her high commission in preaching His word, administering His ordinances, and teaching men "to observe all things whatsoever He has commanded;" then, neither is the state warranted to

The endowment of the Church, and the terms on which it was conferred.

The State not entitled to make the endowment of the Church a ground for taking away her spiritual freedom.

CHAP. III. demand from the church one iota of subjection in any of those matters spiritual; nor is the church warranted to yield it to any power upon earth. 1560 to 1567.

The discussion of that question, however, is not relevant here. The sole question, as already hinted, wherewith we are now concerned, is one of fact,—Did the parliament of Scotland confer on the church the temporal benefits of an establishment, on terms subversive of her spiritual independence? The act of the Scottish parliament upon the subject will furnish the reply. It is entitled, act "anent the admission of them that shall be presented to benefices having cure of ministry." To ascertain the actual position which this statute assigns to the jurisdiction of the church, there are two points to be considered: first, to whom is the power of admission granted; and second, in case of any dispute arising under the statute, to what court is the question to be appealed for final adjudication? On both of these points the act is quite explicit; as regards the former, "it is statute and ordained that the examination and admission of ministers shall be only in the power of the kirk;" and with reference to the latter, the provision made is not less unequivocal. "It shall be lawful to the patron," so runs the statute, "to appeal to the superintendent and ministers of that province where the benefice lies, and desire the person presented to be admitted, which if they refuse,—to appeal to the general assembly of the whole realm, by whom the cause being decided, *shall take end as they decern and declare.*" If there be any meaning in words, the Scottish legislature, by this important statute, made over the entire subject of the settlement of ministers to the jurisdiction of the church. Instead of assuming, under the plea of regulating the title to the benefice, a right to control the church in the disposal of the cure of souls, the statute ordains that the church's decision on the spiritual question of the cure of

Act 1567, on the examination and admission of ministers; and the exclusive jurisdiction in these matters which it declares to belong to the Church.

1560 to 1567. souls shall, *ipso facto*, decide the temporal question of the benefice. In a word, the state, by this act of parliament, made the endowments which it conferred, the mere appendage of the pastoral office. Having first declared that all questions about the title to that spiritual office belonged to the jurisdiction of the church, it then expressly provided, that her judgment in admitting to or excluding from the ministry, should settle the point of admission to or exclusion from the benefice. It may be observed here, in passing, that this original and fundamental act was continued in force by subsequent statutes, and formed an essential part of the law regulating the settlement of ministers in the church of Scotland, as finally fixed by the revolution settlement and the treaty of union. Nor did even the act of Queen Anne, which will come afterwards to be noticed, profess in the least to interfere with its unshackled operation.

Act 1567 restored by revolution settlement, and ratified by treaty of Union, and not touched by Act of Queen Anne

The act of 1567, however, cannot be dismissed without some further remarks. It contained in it a root of bitterness which was not long in springing up to trouble the church, and to which indeed may be ultimately traced the disruption itself: that act "reserved the presentation of laic patronages to the just and ancient patrons." "In the bible," as a learned foreigner writing on the Scottish church controversy observes, "no mention is made of patrons at all."* Their origin must be traced to a very different source, the whole system with which the name is associated, as one of the great standards of the church of Scotland with reason affirms, "flowed from the pope and corruption of the canon law;" and it had been well if the system had disappeared with the abolished superstition which gave it birth. Perhaps, however, on looking into all the circumstances of

Lay patronage maintained by Act 1567.

* "*The Scotch Church Question*, by the Rev. Adolphus Sydow, chaplain to the King of Prussia, &c.;" a work not less remarkable for fulness and accuracy of research, than for candour and intelligence.

CHAP. III. the case and of the times, we are less entitled to wonder 1560 to 1567 that this remnant of ecclesiastical corruption was permitted to continue, than that the long-accumulated errors and abominations of the augean stable of Romanism, had been to so large an extent swept away. What could hardly fail to diminish the alarm of the reformers at the reservation of "laic patronages," was the fact that their number was then comparatively small. "Of the parochial benefices of Scotland, amounting to nearly a thousand, all except 262 had been annexed permanently, by grant of the patrons, to abbacies and other religious institutions which came in place of the rector, and as such drew the tithes; while the spiritual duty was performed either by a member of the establishment, or a stipendiary substitute, and the patronage was altogether sunk and extinguished: no presentation being ever required to be made, the benefice being always full, by the continued existence of the abbacy or other religious institution to which it had been granted." Such was the state of matters in Scotland previous to the reformation. Three-fourths of the benefices were in the hands of ecclesiastical patrons; and hence the "laic patronages" reserved by the act 1567, touched only a fractional part of the church. It was within this limited range alone that the right of patronage had then any existence; a right, moreover, which was restricted by the act in question to a simple nomination, over the ultimate disposal of which, in every case, the control of the church was declared to be entire and absolute. It is not difficult to understand how the reformers may have come to the conclusion, that the fact of the legislature making the reservation of these lay patronages a condition of the church's establishment, was not a sufficient ground for refusing that establishment altogether. The issue of this concession, however, adds but another to the countless examples of the wisdom and the worth of the maxim, *obsta*

Limited number of lay patronages when Act 1567 was passed.

1560 to 1567. *principiis.* It was like the letting out of waters. The breach seemed small, and the runnel insignificant, but the impure flood which got vent by this little orifice soon swept over the whole field of the church. "After the reformation the greater benefices (abbacies, priories, &c.) were erected into temporal lordships in favour of private individuals, who were called 'lords of erection,' or 'titulars,' being *in titulo* of the benefices so erected; including, of course, the whole annexed parochial benefices, under the obligation of providing the cure to be served." And by and by, when King James had assumed the reins of government, "he resorted to the practice of including a right of presenting to the annexed churches, in his erections of the greater benefices into temporal lordships, re-erecting the parochial benefices, and subjecting them to patronage."* It was of this iniquitous proceeding the remark was made by Sir George Mackenzie,† no friend certainly either of popular privileges, or of the rights of the presbyterian church,—"there can be nothing so unjust and illegal as these patronages were." And finally, to complete the history of the extension over the church of the patronages, which came in under the act of 1567,—the celebrated statute of Queen Anne, a statute every way infamous, as there will be ample occasion in the sequel to show, made over to the crown, by a mere act of usurpation, those bishopric patronages, which had always belonged to the church, and which, under the presbyterian church, had been wont to be settled on the "suit and calling of the congregation," without any presentations at all.

Discreditable means by which lay patronages were multiplied.

There can be no doubt that the existence of lay-patronage very considerably facilitated the introduction of those measures, by which, very soon after the period above alluded

* Dunlop's *Letter to Dean of Faculty*, pp. 48. 49.

† Lord Advocate under the reign of Charles II., and too well known in Scottish history under the ominous name of the "bloody Mackenzie."

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to, the first resolute attempt on the independent jurisdiction of the reformed church was made. In order to get hold of the spoils of the Romish establishment with a somewhat better grace than by direct seizure and secularization, the scheme was devised of setting up a kind of bastard prelacy. Ministers were to be sought out who would consent to be bribed and degraded with the dignity of an office not sanctioned by their church, and who would further stoop to prostitute that office into a base instrument for serving the sordid ends of rapacity and ambition. The pseudo prelates, for they had little of the office but the name, were to be the jackals of the greater beasts of prey. In their name the forfeited revenues of the popish bishoprics, and other greater ecclesiastical benefices, were to be uplifted as before; and the appearance of preserving their character as church property was thus to be secured. But the tulchan,* as the tithe-gathering bishop soon came, in derision, to be universally designated, having played his part in levying the fruits of the benefice, the lion's share of the booty was to be handed over to the lay-lord, on whom the benefice had in reality been conferred. Nor was the task-master over-indulgent when his servant the bishop happened to be an unwilling or unsuccessful extortioner. James Melville, in his well known diary, relates the story of a certain Mr. James Boyd, who had been induced by Lord Boyd, his kinsman and chief, to take the bishopric of Glasgow, which, for his own "commoditie," his lordship had purchased. "But within a year or two, when he found not his bishop pliable to his purpose, he caused his son, the master of Boyd, take the castle, and intromit with all therein, keep it and gather up the rents of the bishopric to entertain the same; and this was done with impunity, notwithstanding the regent's strict justice, because

1567 to 1592

Lay patronage facilitated the attacks that were soon made on the independent jurisdiction of the Church.

Tulchan prelacy, its origin and use.

* A calf's skin stuffed, employed to induce a stubborn cow to let down her milk.

1567 to 1592. the tulchan caused not the cow to give milk enough to my lord."* The same faithful chronicler has preserved the singularly graphic picture of this tulchan prelacy, that was sketched in his hearing, by a preacher of that day, in his sermon. The preacher made "three sorts of bishops,—my lord bishop, my lord's bishop, and the Lord's bishop. My lord bishop, says he, was in the papistrie; my lord's bishop is now, when my lord gets the benefice, and the bishop serves for nothing but to make his tythe sure; and the Lord's bishop is the true minister of the gospel."†

Three sorts of bishops.

Although the Earl of Morton, the founder of this iniquitous system, was sufficiently unscrupulous, where his own aggrandizement was concerned, to have disregarded almost any obstacles that stood in his way, it seems obvious that his difficulties, in setting up the system of prelacy, would have been very seriously increased had the statute 1567 abolished instead of restoring the law of patronage. As regards the appointment of ministers, that law left in secular hands the initiative or power of nomination; and, so far, made it more easy for crafty and covetous politicians to set on foot the prelatic scheme. At the same time, it undoubtedly required much more than the law of patronage to form even a decent pretext for the authority which the regent assumed, in taking it upon him to intrude episcopacy upon a presbyterian church. That authority implied nothing less than the power to create a spiritual office, and involved, therefore, an act of direct and destructive interference with ecclesiastical jurisdiction. Referring to the fact, that this measure was adopted not only without the concurrence of the church, but in express opposition to it, Dr. Cook, in his *History of the Church of Scotland*, denounces it as "so plainly subversive of ecclesiastical right, that a determina-

The Earl of Morton—selfish and unscrupulous.

* Melville's *Diary*, Wodrow edition, pp. 47, 48. † Ibid. p. 32.

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tion to persist in it might have renewed the calamities of a religious war."* 1567 to 1592.

The Church resists the usurpations of the civil power; protest of Erskine of Dun.

The resistance which these proceedings encountered on the part of the church, and the noble remonstrance which they drew forth from one of the church's ablest champions, Erskine of Dun, serve very conclusively to show how rapidly, under the training of the times, the mind of the reformers was maturing on the great principles that should regulate the relations of church and state. "There is," said Erskine, addressing the Regent Mar, who had given his concurrence to the proceedings of Morton, "a spiritual jurisdiction and power which God has given unto His kirk, and to them that bear office therein, and there is a temporal jurisdiction and power given of God to kings and civil magistrates. Both the powers are of God, and most agreeing to the fortifying one of the other if they be right used. But when the corruption of man enters in, confounding the offices, usurping to himself what he pleases, nothing regarding the good order appointed of God, then confusion follows in all estates. The kirk of God should fortify all lawful power and authority that pertains to the civil magistrate, because it is the ordinance of God: but if he pass the bounds of his office, and enter within the sanctuary of the Lord, meddling with such things as appertain to the ministers of God's kirk, then the servants of God should withstand his unjust enterprize; for so are they commanded of God."

The Regent abandons the attempt to introduce prelacy without the sanction of the Church.

This strenuous opposition was not in vain. The government desisted from the further prosecution of the measures complained of, till they should first obtain some such acquiescence on the part of the church as might enable them to say, it is the church's own doing. And so far the fact is by no means unimportant. It plainly shows that the

* Vol. i. p. 109.

1567 to 1592. reformed church was constituted, from the beginning, on the principle of the right of self-government, and that no surrender of that principle was either made or intended to be made, when she entered into union with the civil power. By abandoning the attempt to introduce the prelatic scheme on the strength of secular authority, the state virtually confessed that, as being a matter ecclesiastical, it belonged to the province of the church. The church did not, indeed, follow up her victory as courageously as she had achieved it. The superintendents and ministers who met, at the regent's request, to consider his proposition, not only assumed, without warrant from the church, the functions and powers of a general assembly, but gave their consent to the introduction of a modified episcopacy. This injudicious and unfaithful conduct of the "Convention of Leith," as that irregular assembly is commonly called, occasioned much trouble to the church, and would have occasioned far more but for the important limitation which, in sanctioning the order of bishops, it put on their power. They were declared to be subject in all things to the authority of the general assembly. Mere tools of the leading statesmen as the bishops were, they would have proved both the fit and the willing instruments to ensure the subversion of the church's liberty had they really been made the church's governors. But the supreme power being reserved to the general assembly, the battle of the church's freedom could still be maintained on constitutional ground; and on this ground it was, in point of fact, both fought and won. What the church needed at this eventful era of her history was a leader adequate to the emergency: nor was this want left unsupplied. When God has a great work to do, He never fails to provide the workman. When the time comes, so does the man. Knox, the hero of the great conflict with popery, was already old and infirm when

The Convention of Leith, and the sanction which that irregular assembly gave to the prelatic scheme.

A master mind greatly needed for that crisis of the Church's affairs; and God's care in providing one.

CHAP. III. the struggle with erastianism had little more than begun. 1567 to 1592

Eulogy pronounced by the Regent Morton over the grave of Knox.

And when the Earl of Morton, now regent of the kingdom, pronounced over the reformer's grave the memorable eulogium, "there he lies who never feared the face of flesh," it was, perhaps, with a secret satisfaction at the thought, that the chief hinderance to the success of his tyrannical and selfish schemes was now out of the way. The aged soldier of Jesus Christ had, indeed, been summoned to his rest, but it was only that the banner he had so valiantly displayed for the truth might be transferred to younger hands. Within two years after the convention of Leith, another champion appeared in the field. In the year 1574,

Andrew Melville returns to Scotland.

Andrew Melville returned to Scotland. His character was already well known. His great learning, his sound judgment, his vigour of mind, and above all, his unbending integrity and fearless courage, had secured for him the esteem and confidence of the continental reformers. "The greatest token of affection the kirk of Geneva could show to Scotland," said the famous Theodore Beza, "was that they had suffered themselves to be deprived of Mr. Andrew Melville." His arrival was not unnoticed by the regent. Haughty, daring, and despotic as Morton was, he felt that the presence of Melville would prove a formidable barrier in his way. His first effort, accordingly, was to seduce him by bribes and flattery, and when these failed he betook himself to his more congenial weapons, terror and force.

Melville infuses fresh courage into the assembly.

Neither corrupted nor intimidated, Melville threw himself heart and soul into the struggle in which he found the church engaged. Not contented with resisting further encroachments, the assembly, under his bold and energetic guidance, proceeded to purge out from the presbyterian constitution of the church that leaven of prelacy, the introduction of which the convention at Leith had so rashly and irregularly sanctioned three years before. In the

1567 to 1592. assembly of 1575, the question was formally raised, "Have bishops, as they are now in Scotland, their function from the word of God; and ought the chapters appointed for electing them to be tolerated in a reformed church?" The former branch of this twofold question was decided in the negative by the assembly of the following year; and not long afterwards, the latter branch of it received a not less emphatic reply in the total abolition of Episcopacy, and in the order which the assembly issued, requiring the existing bishops to resign their offices under pain of the highest censure of the church.

Abolition of Episcopacy.

Meanwhile the assembly had been carefully revising and perfecting its whole system of ecclesiastical policy. The second book of discipline, completed and approved in the year 1578, was the fruit of these labours. Of this work, the most competent judge of modern times has said, "it has secured the cordial and lasting attachment of the people of Scotland; whenever it has been wrested from them by arbitrary violence, they have uniformly embraced the first favourable opportunity of demanding its restoration, and the principal secessions which have been made from the national church have been stated, not in the way of dissent from its constitution as in England, but in opposition to departures, real or alleged, from its original and genuine principles."* As this standard came, in the language even of a late leader of the moderate party, to be "a charter of the church,"† an authoritative exposition of the church's views on the great question involved in the recent controversy, it may be necessary to advert a little to the statements which it makes: *first*, on the nature and limits of church power, as contradistinguished from the

The Second Book of Discipline prepared and adopted by the Assembly.

* M'Crie's *Life of Melville*, p. 125.

† Dr. Cook—Speech on the Independence of the Church, 1838.

CHAP. III. power of the state; and *second*, on the subject of the civil law of patronage, and the rights of the christian people in the election of their ministers. 1567 to 1592.

Character and contents of Second Book of Discipline.

It would, perhaps, be difficult to find in any treatise, either ancient or modern, a more luminous, comprehensive, and at the same time, carefully guarded definition of the respective provinces and mutual relations of the civil and the ecclesiastical authorities, than will be found in the first chapter of the second book of discipline. Treating of the power of the church, it says:—"This power ecclesiastical is an authority granted by God the Father, through the mediator Jesus Christ, unto his church gathered, and having its ground in the word of God, to be put in execution by them unto whom the spiritual government of the church is by lawful calling committed." "This power and policy ecclesiastical," it continues, "is different and distinct in its own nature from that power and policy which is called the civil power, and appertains to the civil government of the commonwealth: albeit they be both of God, and tend to one end if they be rightly used—to wit, to advance the glory of God, and to have godly and good subjects. For, this power ecclesiastical flows from God and the mediator Jesus Christ, and is spiritual, not having a temporal head on earth, but only Christ, the only spiritual king and governor of his church. * * Therefore this power and policy of the church should lean upon the word immediately as the only ground thereof, and should be taken from the pure fountains of the scriptures, the church hearing the voice of Christ, and being ruled by His laws." To guard against the abuse of this general doctrine, the same chapter goes on to draw the line between the civil province of the state and the spiritual province of the church, and that with a precision and a firmness which protects with equal jealousy the independence of both. It leaves as little room for the

View which it gives of the powers and functions of the Church.

1567 to 1592. spiritual despotism of the church, as for the erastian domination of the civil power.

Ministers and magistrates, and their relation to one another.

"As the ministers, and others, of the ecclesiastical estate are subject to the magistrate civil," proceeds this noble document, "so ought the power of the magistrate to be subject to the church spiritually and in ecclesiastical government. And the exercise of both these jurisdictions cannot stand in one person ordinarily; the civil power is called the power of the sword, and the other the power of the keys."

The functions and duties of civil and spiritual rulers respectively.

But while each is distinct from, and independent of, the other, they are by no means to regard each other's proceedings with cold unconcern.

"The civil power should command the spiritual to exercise and do their office according to the word of God. The spiritual rulers should require the christian magistrate to minister justice, and punish vice, and to maintain the liberty and quietness of the church within their bounds.'

"The magistrate commands external things for external peace, and quietness among the subjects; the minister handles external things only for conscience' cause.

"The magistrate handles external things only, and actions done before men; but the spiritual ruler judges both inward affections and external actions in respect of conscience, by the word of God.

"The civil magistrate craves and gets obedience by the sword, and other external means; but the ministry by the spiritual sword and spiritual means."

Having thus clearly indicated the respective provinces of the state and of the church, pointed out the nature and limits of the power which it belongs to them respectively to exercise, and the kind of means by which their authority is to be enforced; the chapter concludes with an application of these general statements to particular cases.

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"The magistrate neither ought to preach, minister the sacraments, nor yet prescribe any rule how it should be done, but command the ministers to observe the rule commanded in the word, and punish the transgressors by civil means.* The ministry exercise not the civil jurisdiction; but teach the magistrate how it should be exercised according to the word. 1567 to 1592.

"The magistrate ought to assist, maintain, and fortify the jurisdiction of the church. The ministers should assist their prince in all things agreeable to the word, providing they neglect not their own charge by involving themselves in civil affairs.

"Finally, as ministers are subject to the judgment and punishment of the magistrate in external things if they offend, so ought the magistrates to submit themselves to the discipline of the church, if they transgress in matters of conscience and religion."

Second Book of Discipline clearly shows, that the independence of the Church, in matters spiritual, is held to be a fundamental doctrine by the Church of Scotland.

In these weighty and well-balanced sentences, the reformed church of Scotland has recorded her views on the jurisdiction rightfully belonging to the respective provinces of church and state, and on the duties and obligations which they owe to one another. They leave no room to doubt, that according to her judgment, both are of divine institution, and of co-ordinate authority; each having a separate and independent sphere of action, broad and well defined, into which it is not lawful for the other to intrude. Self-government, in a word, is held to be as complete and as inherent in the church as it is in the state itself.

In addition to this fundamental question of independent jurisdiction, it is important to advert to the view which this standard takes of the rights of the christian people in the

* As, for example, by depriving ministers, when deposed by the church for proper ecclesiastical offences, of the civil emoluments granted by the state.

1567 to 1592.

election of their ministers, and of the whole subject of lay patronage. The third chapter has this title—"How the persons that bear ecclesiastical functions are admitted to their office?" And in answer to this inquiry, it is laid down generally that the ordinary calling of the church's office-bearers consists "in the calling of God, and the testimony of a good conscience," together with "the lawful approbation and outward judgment of men;" that is to say, there must be ordinarily both an inward and an outward call: inward from God, outward from the church. As regards the outward call, it is explained to consist of two parts—election and ordination. And, further, "election" is defined to be the choosing out of a person or persons most qualified for the vacant office "by the judgment of the eldership (that is, of the presbytery), and consent of the congregation." And, moreover, it is laid down as a rule to be always and carefully observed, "that no person be intruded in any of the offices of the church contrary to the will of the congregation to which they are appointed, or without the voice of the eldership."

Election of ministers—patronage—view taken by Second Book of Discipline of these subjects.

Principle of non-intrusion.

It is not necessary here to enter into the question which has been often raised, how far the privilege thus declared to belong to congregations is co-extensive with that which is assigned to them in the first book of discipline; where it is said, that "it appertaineth to the people, and to every several congregation, to elect their minister." This very question was put to the man, perhaps the most competent to answer it, the learned and venerable historian M'Crie, by a committee of the house of commons, in 1835,—"Did the second book of discipline set aside the first, or establish a different mode from it, as to the election of ministers?" In reply he said—"I do not think that the first book of discipline was supplanted by the second. * * * Nor do I think that the second book of discipline lays down any

Were the First and Second Books of Discipline at one on the subject of the election of ministers?

Opinion of Dr. M'Crie.

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doctrine on the subject of the election of ministers substantially different from the first." The apparent difference he accounts for by showing that, as used in the second book of discipline, "election" includes two things—both the choice of the congregation, and the examination of the presbytery; whereas the former only is intended where the same word occurs in the first book of discipline. He assigns, at the same time, a most intelligible reason for giving to the word "election" this more comprehensive range of meaning at the time the second book of discipline was framed. "The jurisdiction of the church was called in question at this time by the court; and as this jurisdiction had been ratified by parliament, the assembly, by declaring that election and examination belong to this jurisdiction, at once asserted their own rights, and took the liberties of the people under their wing." * 1567 to 1592.

Second Book of Discipline condemns lay patronage.

It is not necessary, however, to resort to any process of inferential reasoning in order to learn the judgment which this standard of policy has pronounced on the question of lay patronage. Among the "special heads of reformation" which it enumerates and "craves," is the following explicit testimony: "Because this order which God's word craves cannot stand with patronages and presentation to benefices used in the pope's church, we desire all them that truly fear God, earnestly to consider that forasmuch as patronages and benefices, together with the effect thereof, have flowed from the pope and corruption of the canon law only, in so far as thereby any person was intruded or placed over churches having cure of souls; and inasmuch as that manner of proceeding has no ground in the word of God, but is contrary to the same and to the said liberty of election, they ought not now to have place in this light of reformation."

* *Minutes of Evidence of the Committee on Patronage*, p. 353.

1567 to 1592. The second book of discipline having been formally adopted by the church as her standard of ecclesiastical polity, and subscription to it having been required of all her ministers, she proceeded to act upon it with unhesitating resolution. The state indeed had not expressly sanctioned it, any more than it had sanctioned the first book of discipline, which went before it. But as the church had not on that account been deterred in 1560, and the years which immediately followed, from carrying out, upon her own inherent authority, the conclusions at which she had arrived, so neither did she falter now. When the state did interfere in 1567, it was only to affirm the principle of that intrinsic power in matters spiritual which the church had from the first assumed. And the statutes of that year being still in force in 1578, and these statutes having explicitly affirmed the doctrine that jurisdiction in matters spiritual resided exclusively in the church; she had thus a clear ground—not in scripture merely, but in the law of the land—both for handling such matters as were treated of in the second book of discipline, and, in so far as these lay fairly within the spiritual province, of giving them practical effect. The thorough presbyterianism of the second book of discipline could not stand with prelacy. And, accordingly, the assembly of 1580 passed an act declaring the prelatic office to have no warrant in the word of God, and requiring the existing bishops to give in their demission without delay, and to conform themselves to the actual constitution of the church. In the course of the same year all the bishops but five acquiesced in this decision. As the state had practically acknowledged by its proceedings in regard to the convention of Leith, that without the consent of the church, episcopacy could not be set up, so now when the guarded and limited consent to the introduction of it, which that irregular assembly had given, was by

The Church gave immediate effect to those views of policy laid down in her Second Book of Discipline.

Prelacy condemned, and bishops required to give in their demission.

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the formal and deliberate act of the church withdrawn, 1567 to 1592.

The two legitimate alternatives open to the State in these circumstances.

there were two courses, one or other of which it was perfectly open to the state to pursue, on the supposition that it could not assent to the church's presbyterian constitution. The state might have remonstrated with the church, and have endeavoured to bring her to another mind on the question in dispute. The state was under no obligation to receive the dictum of the church on that or any other question, whether of doctrine or of discipline. On the contrary, and for the regulation of its own conduct, it was manifestly both the right and duty of the state to judge for itself, whether the truth lay with presbyterianism or with prelacy, just as it was its right and duty to judge whether the truth lay with popery or protestantism. But the question being undeniably a spiritual question, the competency of the church to deal with it could not be doubted. And in dealing with it, moreover, it was abundantly clear that the church, in the language of the second book of discipline, must "lean upon the word immediately,—hearing the voice of Christ and being guided by His laws." If, therefore, the church should continue to think, that in condemning the prelatic office and form of church government, she was following the revealed will of her exalted King, and should thus find herself precluded from conforming upon that subject to the wishes of the civil power, there was still another alternative the state might adopt. It might withdraw the civil establishment which it had conferred upon the church; but beyond this it could not legitimately go. To attempt, by civil pains and penalties, to compel the church to sanction a spiritual office, or adopt a platform of ecclesiastical government, contrary to her own conviction of duty, would be to pursue the same course as that of the Jewish authorities of old, when they "straitly threatened" the two apostles, "that they should speak no more in the

What the State could *not* legitimately do.

1567 to 1592. name of Jesus." In such an event the church could have no choice but to reply in the language of the interdicted servants of Christ, "Whether it be right to hearken unto you more than unto God, judge ye, for we cannot but speak the things which we have seen and heard." *

What then did the state actually do on the occasion alluded to? The case of Montgomery furnishes the best answer to that inquiry, and it is full of instruction on the point now under consideration. The light which it reflects on the relations of church and state in Scotland, is clear and strong. The state attempted to make the church prelatic, in spite of her presbyterian principles, and attempted it by force. On the death of Boyd the archbishop of Glasgow, in 1581, a grant of the revenues of the vacant see was made to the Duke of Lennox, the court favourite of the day. To make this grant available, it was necessary to put some one into the archiepiscopal office who would undertake, on the footing of the tulchan system, for some small allowance to himself, to collect the rents and hand them over to the duke. An instrument, mean enough to perform this contemptible function, was found in the person of a certain Robert Montgomery, then minister of Stirling. This transaction at once brought the church and the civil power into collision. The whole question of the church's spiritual liberty was involved in it. To suffer her deliberate judgment against prelacy, embodied in her standard of policy, and in the recent enactments of her assembly, to be set aside by the simple fiat of the crown, would have been to renounce all pretensions to the right of self-government. Nothing could be more admirable than the mingled firmness and forbearance which the church on this emergency displayed. Fully alive to the evils of a conflict with the

What the State actually did.

The case of Montgomery.

Collision between the civil and ecclesiastical authorities.

* Acts iv. 17–20.

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state, she spared no pains to avert the calamity. Montgomery was dealt with, to withdraw from the rebellious position he had assumed, in accepting an office forbidden by the church: and at the same time the most earnest remonstrances were made to the king and council, to induce them to alter their course. The account which Calderwood* has preserved, of the efforts made for this purpose, furnishes the best possible answer to the charges of rashness and violence sometimes made, under the influence of ignorance or prejudice, against the men who then guided the counsels of the Scottish church. Unsuccessful in the use of these more private means, the assembly did not for a moment hesitate to betake itself to others of a more public kind. 1567 to 1592.

Montgomery ordered by the Church to renounce his presentation to the archbishopric—refuses to do so.

Montgomery was expressly enjoined to renounce his presentation to the archiepiscopal see, and to confine himself to his ministerial charge: and special instructions were at the same time given to his presbytery to watch his movements. Montgomery persisting in his unlawful purpose, the presbytery, as directed, reported the case to the synod of Lothian. The court, not less vigilant than the church, immediately confronted the synod with a messenger-at-arms, and not only interdicted them from taking up the cause, but summoned them to appear before the privy council, to answer for their conduct in attempting to stay the execution of an order of the king. The synod, as resolute as the court, and standing firmly on the foundation both of scripture and of constitutional law, declined the jurisdiction of the privy council. Desirous at the same time to show all respect to the crown, they appointed certain of their number to intimate this declinature, and to attempt at least to satisfy the privy council upon the subject. John Dury, an eminent minister of that day, who was one of the deputies, having

* Calderwood, vol. iii., pp. 577–579, Wodrow edition.

1567 to 1592. signified that necessity was laid upon them to act as they were doing, and that should Montgomery persist, it would become their imperative duty to visit him with the highest censures of the church,—"We will not suffer you," said the king. For, young as the sovereign was, he had already learned the language of intolerance. But Dury was not to be daunted by this ebullition of royal displeasure. "We must obey God rather than man," he replied, "and pray God to remove evil company from about you. The welfare of the kirk is your welfare; the more sharply vice be rebuked the better for you." To show, at the same time, that their deeds were equal to their words, they summoned Montgomery to appear before the assembly, to answer for his conduct.

Church remonstrates with the King, for interfering with the discipline of the Church.

The assembly to which this citation applied, met in St. Andrews, in the month of April, 1581. The first movement on the part of the civil power took the form of a letter to the assembly, under the hand of the king, requiring them to proceed no further in Montgomery's case. Reluctant, perhaps, to come to extremities with the church, the party who held the reins of government, and was driving on this business, appears to have thought that this simple intimation of the royal will and pleasure might suffice to bring the whole matter to an end. Those who guided the councils of the church had formed a juster estimate of their own position, and of the interests that were at stake, than to suffer themselves to be so easily turned aside. They assured his majesty, in their prompt reply, that they would handle nothing that belonged to the civil power; but that, in disposing of the grave spiritual question before them, they would and must proceed under their solemn responsibility to God. The rejoinder which this called forth was delivered by a messenger-at-arms, who, at the very time when Montgomery's case had just been called, advanced into the

Montgomery cited to appear before the general assembly.

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A messenger-at-arms appears in the assembly, and lodges a royal interdict against the proceedings in Montgomery's case.

assembly, and, "by virtue of the king's letters, delivered by the lords of secret council and session, discharged the moderator and his assessors, the brethren of the assembly, to direct any citation against Mr. Robert Montgomery, to excommunicate, slander, or trouble him in his ministry for aspiring to the bishopric of Glasgow: or for calling or pursuing of his brethren for the same, or for any promise made thereanent, or any other thing depending thereupon in the byegone, under the pains of rebellion and putting them to the horn: certifying them if they fail, he will denounce them our sovereign lord's rebels, and put them to his highness' horn." * 1567 to 1592.

Collision of the civil and ecclesiastical authorities.

The state and the church were now in immediate conflict. The church was using nothing but the keys of her own spiritual discipline—keys which her divine Lord and King had committed to her hands, and had required her, as she would be answerable to Him, faithfully to employ in admitting into or excluding from His house on earth, according to His word. The state, with its ruder weapon the sword, threatened to strike the keys from her hand. What was now to be done? Which party was to give way? In such an emergency, it has been asserted by a modern authority, that the church, as the "weaker party, must go to the wall."† Force, that is to say, must overbear conscience. The sentiment is as barbarous as the assumption connected with it is untrue. Conscience is not the weaker party. It is mightier far than the brute energies of despotism. There is a power even in its sufferings and its sacrifices before which the arm of violence has often shrunk and withered. With the courage which conscience imparts, the assembly went resolutely on; as if the interdict which had been flung in so haughty and threatening a tone across

Lord Brougham's opinion as to which of these two parties must give way.

* Calderwood, vol. iii., p. 501, Wodrow edition.
† Lord Brougham.

1567 to 1592. their path, had had no existence. The delinquent being fully convicted of the offence charged against him, the assembly found that he was "worthy to be deprived, in all time coming, of the ministry, and that the sentence of excommunication should strike upon him, except he prevented it by repentance."* Overawed, for the time at least, by the firmness of the assembly, Montgomery presented himself at the bar of the house; withdrew his appeal to the civil power; and with many professions of sorrow for his offence, and solemnly engaging to renounce the archbishopric, threw himself on the clemency of the church.

Firmness of the assembly. Montgomery succumbs.

The contest was by no means at a close. Although the assembly, in their earnest desire for peace, accepted Montgomery's submission, and abstained from pronouncing the sentence his conduct had merited, they knew the man too well to repose much confidence in anything he said or did. Combining, therefore, vigilance with forbearance, the presbytery of Glasgow were instructed to keep an eye on his movements, while the presbytery of Edinburgh were at the same time empowered and directed to issue the suspended sentence of excommunication on the instant of their being certified that his present engagements were broken. The necessity for such precautions very soon appeared; urged on by Lennox, who was impatient to get possession of the archiepiscopal revenues, and by the court and king, who were not less intent on the maintenance of so convenient a system as the tulchan prelacy, his own weak brain too still dazzled by the lustre of the forbidden mitre, Montgomery forgot all his pledges to the assembly, and once more renewed his acceptance of the illegal office. The presbytery of Glasgow, hearing of this treacherous conduct, were proceeding to follow out the instructions of the assembly upon

The contest renewed, Montgomery having broken his pledge.

* Calderwood, vol. iii., p. 602, Wodrow edition.

CHAP. III.

Assault upon the Presbytery of Glasgow, and their undaunted spirit.

the subject when the provost of the city, attended by other local authorities and followed by a crowd of supporters, rushed into their place of meeting. One of these intruders with unmanly violence struck the moderator on the face, and that with such force as to dash out one of his teeth: not contented with this brutal assault, they dragged him from his chair and threw him into prison. With a christian heroism which did them honour, the other members who remained, at once chose another moderator, and, undaunted by what had occurred, they executed to the letter the instructions of the assembly, and transmitted without delay an account of the whole proceedings to the presbytery of Edinburgh. The metropolitan presbytery were not less prompt and resolute in the discharge of their duty in this perilous affair. They pronounced the sentence of excommunication against Montgomery, and thus left the state, if it should be determined to thrust him into the archbishopric, to put the venal mitre on the head, not of a minister of the church of Scotland, but of one who had become to that church as "an heathen man and a publican."

1567 to 1592.

Sentence of excommunication against Montgomery pronounced.

Extent to which the principle of Erastianism goes.

It is not unimportant to observe, what this memorable case so clearly exemplifies, to what lengths erastianism will carry those who adopt its principles. If the civil power is to be supreme in all matters and causes ecclesiastical, there is nothing within the whole province of the church safe from its interference. The church in that event, instead of being a kingdom not of this world, becomes one of the very basest of the world's kingdoms. Its allegiance is transferred from Christ to Cæsar; its own statute book, the bible, is supplanted by human laws; and, from being the free servant of God, it is degraded to the condition of the enslaved hireling of man. It was no fault of the civil power in Scotland, at the period now in question, if the liberties of the Scottish church were not thus prostrated and destroyed. From dis-

1567 to 1592. regarding her fundamental principles and laws, the privy council went on to sit in judgment even upon her spiritual censures, and to set them aside. By public proclamation it condemned and nullified the sentence of excommunication against Montgomery which the church had pronounced. This brought matters to a point; and well was it for the country that to meet a crisis so formidable, the fitting instruments had been prepared. It was in this stern school our early reformers were taught the true relations of church and state; a lesson they learned so well, and illustrated so impressively by their labours, sufferings, and testimonies, that it has come to be engraven on the hearts of their descendants, as with an iron pen and the point of a diamond.

Privy Council declares the excommunication null and void.

A special meeting of the general assembly was convened. The moderator, the illustrious Andrew Melville, ascended the pulpit, and the trumpet gave no uncertain sound. "He inveighed against those who had introduced the *bludie gullie** of absolute power into the country, and who sought to erect a new popedom in the person of the prince. The pope, he said, was the first who united the ecclesiastical supremacy to the civil, which he had wrested from the emperor. Since the reformation he had, with the view of suppressing the gospel, delegated his absolute power to the emperor and the kings of Spain and France; and from France, where it had produced the horrors of St. Bartholomew, it was brought into this country. He mentioned the design then on foot of resigning the king's authority into the hands of the queen, which had been devised eight years ago, when he was in France; and was expressed in prints containing the figure of a queen with a child kneeling at her feet, and craving a blessing. And he named bishops Beaton and Lesley as the chief managers of that affair. This will be called, said he,

Special meeting of the General Assembly, and opening address of Melville.

* Bloody knife.

CHAP. III. meddling with civil affairs; but these things tend to the wreck of religion, and therefore I rehearse them."* 1567 to 1592.

The assembly resolves to remonstrate against the outrage on its spiritual authority.

The assembly, thoroughly alive to the magnitude of those interests that were now at stake, drew up a remonstrance, in which they pointed out and protested against the outrage which, in Montgomery's case, the civil power had committed against both the church's ratified constitution and against the fundamental principles of religious liberty. "Your majesty," they observed, in this vigorous remonstrance, "by desire of some counsellors, is caused to take upon your grace that spiritual power and authority which properly belongeth to Christ, as only king and head of His church. The ministry, and execution thereof, is only given to such as bear office in the ecclesiastical government of the same. So that, in your grace's person, men press to erect a new popedom, as though your majesty could not be free king and head of this commonwealth, unless as well the spiritual as the temporal sword be put in your grace's hand: unless Christ be bereft of His authority, and the two jurisdictions confounded which God hath divided."† The commissioners appointed to lay this representation before the king repaired immediately to Perth, where the court then was. Rumours were rife that an intention existed to take their lives, and so to settle their complaints.‡ Regardless of all such hazards, Andrew Melville calmly replied to those who sought to dissuade him and his colleagues from proceeding on so perilous an enterprize—"Come what God pleases to send, our commission shall be discharged." Admitted at length to the royal presence, they produced and read the remonstrance of the assembly. "Who dare subscribe these treasonable articles?" suddenly and fiercely exclaimed Arran,

Interview of the Church's commissioners with the king at Perth.

* M'Crie's *Life of Melville*, vol. i., p. 181.
† Calderwood, vol. iii., p. 628.
‡ James Melville's *Diary*.

1567 to 1592. the court favourite of the day. "We dare," promptly and resolutely responded Andrew Melville, and advancing at the same instant to the table, took up a pen and put his name to the obnoxious document. Animated by his example, his fellow-commissioners, one after another, did the same. Their constancy and christian boldness daunted the youthful despot and his reckless advisers: right triumphed over power: and, for the time at least, the attack on the church's liberty was abandoned.

The king gives way.

It is hoped the reader will find an apology for these details in the important bearing which they have on the main subject of this work. The very essence of the recent controversy is wrapped up in these ancient conflicts. The struggle in which they involved the church, terminated, for the time at least, in the well-known statute of 1592, which is usually spoken of as the great charter of the church of Scotland. Before advancing, however, to the consideration of the settlement of ecclesiastical affairs effected by that well-known statute, it is necessary to advert for a moment to a somewhat memorable piece of legislation by which it was preceded. Defeated in the affair of Montgomery, the king and those who then conducted the Scottish government continued as much bent as ever on the subjugation of the church. The liberties secured to the church at its first establishment in 1567, had proved the chief hinderance to the court's despotic schemes, and these liberties accordingly it was resolved to take away. This was done with a high hand by the "black acts" of 1584. Had these acts remained in force, there would have been no place left for the ten years' conflict of modern times. The footing on which they placed the relations of church and state was too well defined to leave an inch of standing ground within the pale of the constitution, for any one who wished to uphold the doctrine of spiritual independence. It is of these acts of

Bearing of Montgomery's case on the subject of this work.

The king renews his attack on the liberties of the Church. The Black Acts.

CHAP. III. 1584, it was said emphatically by the leading legal opponent 1567
of the church's claims in our own day,—"They destroyed 1592.
the church: they left it no liberty or independence."* It
will perhaps appear to those who carefully and candidly
consider the subject, somewhat difficult to distinguish between
the principles for which that learned person himself con-
tended, and those of the black acts. Many, in consequence,
will probably be at a loss to understand why he should have
so heartily commended the resistance which these acts en-
countered. "There was a spirit awakened in Scotland,"
he says, "mightier far than acts of parliament or the influence
of the court—the spirit of the ministers was not crushed.
They fought on steadily to an end." These sentences will
probably recur to the reader's mind in a later stage of this
narrative. Meanwhile there can be no hesitation in adopting
the sentiment which they express, that the black acts "left
the church no liberty or independence." In the first place,
they invested the civil power with a complete supremacy in
ecclesiastical affairs. One of them (1584, c. 129) enacted
that the king and his successors, "by themselves and their
councils are, and in time coming shall be, judges com-
petent to all persons his highness' subjects, of whatever
estate, degree, function, or condition that ever they be,
spiritual or temporal, *in all matters* wherein they or any of
them shall be apprehended, summoned, or charged to answer
to such things as shall be inquired of them, by our sovereign
lord and his council." Another of these acts (c. 131) dis-
charged "all judgments and jurisdictions, spiritual or tem-
poral, which are not approved of by his highness, and his
said three estates convened in parliament, and be allowed
and ratified by them." In other words, this statute assumed,
what is simply the essence of the erastian theory, that the

Hope, Dean of Faculty's, opinion of the Black Acts.

Provisions of the Black Acts.

* *Speech of Dean of Faculty, Auchterarder Report*, vol. i., p. 205.

1567 to 1592. civil power is the fountain of all lawful jurisdiction, spiritual as well as temporal, within the realm. And finally, in the exercise of this usurped supremacy in matters spiritual, a third of these acts, in the face of the church's presbyterian constitution and laws, established prelacy; enacting that the bishops, with such other commissioners as the king might be pleased to entrust with ecclesiastical affairs, "shall and may direct and put order to all matters and causes ecclesiastical, within their bounds:" giving them authority, moreover, to receive presentations to benefices and give collation thereupon.

Protest against the Black Acts, by ministers on the part of the Church.

These oppressive statutes, when proclaimed at the market cross of Edinburgh, on the 25th of May, 1584, were met with a solemn public protest which certain ministers took, on the part of the church, with all the customary formalities. The attempt to enforce the black acts, drove many of the ministers out of the kingdom, determined, as they were, to refuse subscription to the bond by which they were required to own this new order of things. To smooth the yoke, and induce the less resolute to bow their necks to receive it, Adamson, archbishop of St. Andrews,* cunningly introduced into the bond,—where it spoke of obedience to the royal supremacy and the system set up under it,—a statement that the obedience required was to be given "according to the word of God." As James Melville pithily observed, in an earnest remonstrance to those brethren who suffered themselves to be tempted into this very patent snare, "it was as if one should say, he would obey the pope and his prelates *according to the word of God!*"

The bond—and Adamson's ensnaring clause.

Within a few years thereafter, events occurred which greatly strengthened the hands of the church in resisting

* This was the same individual who, ten years before, so wittily satirized the system of tulchan prelacy in his sermon, as related by James Melville.

CHAP. III.

Events which paved the way for the restoration of the Church's constitutional rights.

these tyrannical enactments, and enabled her at length to obtain their entire abrogation. The popish conspiracy against the liberties of the kingdom, which resulted in the well-known Spanish armada, afforded an opportunity to the church, which was nobly improved, of exhibiting her patriotic spirit. It was the trumpet voice of her assembly that was chiefly instrumental in rousing the nation to an adequate sense of the impending danger; and even the king and his council were made to know and confess, that the best friends of his crown and of the commonwealth were the very men whom he had been doing his utmost to oppose and to oppress. 1567 to 1592.

Important services to the king and country rendered by the Church and her leading ministers.

The same conviction was not long after powerfully confirmed by the eminent services which the church in general, and her leading ministers in particular, rendered in maintaining the peace and good order of the country, during the king's absence in Denmark at the period of his marriage.

The king publicly owns his obligations to the Church.

James himself, for the time at least, was so sensible of the value of their exertions, that on his return to Scotland he went to St. Giles' Church, Edinburgh, and publicly expressed his obligations. It was one of those occasions when even mere secular statesmen are constrained to feel that true religion is the best bulwark of a nation's security, and that the men of genuine piety and godliness are really "the salt of the earth." Under the pressure of the times the king had been constrained to lean upon the very staff which, a few years before, he had wantonly endeavoured to break into shivers. He had found it a far more efficient support than the shoulder of selfish politicians or profligate courtiers: and ungrateful and fickle though he was, it was not possible for him, while all these circumstances were so fresh both in the public mind and in his own, to turn a deaf ear to the church's requests. So favourable a conjuncture the church was naturally solicitous to improve, and accordingly, in the assembly which met in May, 1592, certain articles were drawn up to

1592. be laid before his majesty; the first of which embodied a demand, that "the acts of parliament made, anno 1584, in prejudice of the kirk's liberty, be annulled, and the discipline presently in practice ratified." It will be seen from these significant expressions, that the church, as such, had never for a moment acquiesced in the usurpations which the black acts had made on her constitution and liberty, or conformed herself to the system which they were designed to establish and enforce. And what was now sought, therefore, was not the restoration of her original discipline, but simply the ratification of it. The second book of discipline had continued all along to be the only standard of policy which she acknowledged and *practised*. It was not now to be set up anew, but only to be left in undisturbed operation by the removal of those obnoxious statutes which, in 1584, had been rudely thrown by the king and his servile parliament in its way. Such unquestionably was the attitude in which the assembly of 1592 approached the king, and such in substance was its prayer. It is in the light of these facts, that the settlement of ecclesiastical affairs which followed can alone be rightly read and understood.

The Church calls for the Repeal of the Black Acts.

The Church had never conformed to the Black Acts.

To effect the object which the church had in view, three things were necessary. The bishops and commissioners to whom the king had delegated, in virtue of the usurped supremacy, the control of ecclesiastical affairs, must be set aside; the brand of illegality which had been stamped upon presbyterian, and other church court meetings, removed; and the freedom of the church to exercise unfettered and independent jurisdiction, in all matters spiritual, recognised and allowed. To accomplish this threefold object, the statutes passed in 1592 were amply sufficient. In the first place, the act 1584, which had delegated the government of the church to the king's commissioners, was declared "to be expired in theself," and to be "null in all time coming,

The settlement of 1592: its leading provisions.

CHAP. III.

and of no avail, force, or effect." Next, it "ratified and approved" the presbyterian church courts, and in doing so it took them as they were: not first constituting them by civil authority, and then attaching to them the sanction of the state, but simply attaching the sanction of the state to what already existed by the authority and constitution of the church. And lastly, it abrogated and annulled "all and whatsoever acts, laws, and statutes, made at any time before the day and date hereof, against the liberty of the true kirk, *jurisdiction, and discipline thereof, as the same is used and exercised within this realm.*" And further and more especially, it declared that the act 1584, c. 129, (asserting the supremacy of the king and his courts), "shall be no ways prejudicial, or derogate anything to the privilege *God has given to the spiritual office-bearers of His kirk* concerning heads of religion, matters of heresy, excommunication, collation, and deprivation of ministers, or any such like essential censures, specially grounded and having warrant of the word of God." 1592.

Act 1592 declares the jurisdiction of the Church in matters spiritual to be of Divine right.

It may be necessary, however, in addition to this summary of the settlement of 1592, to set forth somewhat more specifically the footing on which it left the jurisdiction of the church as regards the law of patronage. This is a point of vital importance in reference to the disruption controversy. And first then, the act 1567, so fully considered in an earlier part of this chapter, was ratified and confirmed—that act was one of several statutes in favour of the "liberty of the true kirk," which had been enumerated and confirmed in an act passed in 1581—and the act 1581, in question, was now, by the settlement of 1592, fully ratified "with the whole particular acts therein mentioned," which were to be "as sufficient as if the same were here expressed." Keeping this in view, let the provisions of the statute, 1592, respecting patronage and the church's jurisdiction regarding it, be

Footing on which the act 1592 placed the law of patronage.

1592. attentively noted. It "ordains all presentations to benefices to be directed to the particular presbyteries in all time coming, with full power to give collation thereupon, and to put order to all matters and causes ecclesiastical within their bounds *according to the discipline of the kirk*, providing the foresaid presbyteries be bound and astricted to receive and admit whatsoever qualified minister presented by his majesty or laic patrons."

Power of Presbyteries in admitting ministers—the astricting clause.

This binding and astricting clause is well known to have been, in the recent controversy, the hinge on which the greater part of it turned. It was the strong point of the erastian case, the favourite "coigne of vantage," as they conceived, from which they could play, with the most fatal effect, their batteries against the independent jurisdiction of the church. It deserves therefore and requires more than a cursory consideration. The construction that was actually put upon it by the courts of law in after times will come in due course under review. It will be seen, as the narrative proceeds, that that construction was in entire harmony with the church's independence in matters spiritual, down till the year 1838. But meanwhile let the reader look at the statute itself, and for himself. It will not fail to be observed, that whatsoever it binds and astricts presbyteries to do, is to be done "according to the discipline of the church." Had the civil supremacy in all matters and causes ecclesiastical set up by the black acts been still in force, there might have been sufficient reason to affirm that the question as to what the discipline of the church really was, must come ultimately to be decided by civil law. But seeing that not only had the civil supremacy been set aside, but that one of the acts of 1592 had expressly declared both the "collation and deprivation of ministers" to be a part of the privilege which "God has given to the office-bearers of His kirk," it seems hard to comprehend on what ground it could be denied

Importance of the astricting clause: its terms and import.

CHAP. III. that in that matter, as well as in all other matters ecclesias- 1592.
tical, the church was left to judge, finally and without appeal,
what her discipline was, and what, in every case of the kind,
it appointed to be done. Moreover, the fact must not and
cannot be overlooked, that if there be any meaning in words,
or any consistency in the interpretation of statute law, the
binding and astricting clause must be taken concurrently
with the provisions of the act 1567, unless, by the act 1592,
these were in terms disallowed. They were not disallowed,
but ratified and confirmed, by the act 1592, as already ex-
plained. Now, by the act 1567, it was in the most pointed
language declared that, in case of any complaint arising in
reference to the settlement of a minister presented to a vacant
benefice, the patron had liberty to appeal—not to any court of
civil law—but to the "general assembly," the supreme court
of the church; by whom, being decided, the cause was "to
take end as they shall decern and declare."

Church bound by the clause to admit qualified ministers, but only according to her own discipline.

The Appeal, in all cases of dispute, was to the General Assembly.

It is, indeed, easily conceivable that the courts of the church might reject the patron's presentee, on grounds not contemplated by the statute. In that event, it might be held that the patron had not forfeited his right of presentation, and that the civil law was entitled to step in for his protection. Within certain limits, clear and well defined, and in perfect keeping with the integrity of the church's liberty of decision and action in matters spiritual, the protection alluded to was actually secured by an express and very remarkable provision of the act 1592 itself. But what was the nature and effect of the protection thus provided? Did it give the patron the right to have his rejected presentee ordained, and thrust into the cure of souls, in the face of the church's judgment to the contrary? Did it give to any civil court authority to review the church's sentence to these or to any spiritual effects whatever? Nothing of the kind. It simply made it lawful to the patron, under the sanction of the civil

The check provided by act 1592 against the illegal rejection of a qualified minister.

1592. court, to retain "the whole fruits of the benefice in his own hands." In other words, this admirable, equitable, and most wise provision proceeded upon the broad and palpable distinction, that—while the civil court might regulate and dispose of that which the civil law had given to the church, viz. its endowments—it belonged exclusively to the church, in the exercise of the privilege "given to her by God," to regulate and determine every question pertaining to the office of the ministry, and the cure of the flock of Christ.

This check left to the civil court the entire control of the benefice; and to the Church that of the cure of souls.

It has, indeed, been alleged, by way of narrowing the extent of the jurisdiction recognised, by the settlement of 1592, as belonging to the church, that nothing is to be held as conceded excepting so much as relates to those particular matters specially enumerated in the act 1592 itself. It has been assumed that, because the act singles out certain things from the church's standard of policy, and attaches to them, in express terms, the sanction of civil law, it is to be regarded as disallowing everything else in that standard of policy besides. The assumption would prove too much. In point of fact, the parts of the second book of discipline, thus introduced into the statute, are all taken from one chapter; that, namely, which discusses the "matters to be treated of" in the several church courts. "But that it was not intended to specify everything that these courts might do, so as to exclude the power on the part of any of them to entertain a subject not there specified as within its particular sphere, is quite obvious, from two among other omissions in the enumeration taken from the book of policy."* That book, in the very chapter in question, sets forth the power of presbyteries to depose heretical or scandalous ministers, and also describes the powers belonging to general assemblies. There is no extract, however, as to either of

Did the settlement of 1592 ratify only so much of the Church's policy as it embodied in Acts of Parliament?

The extent of the ratification not to be measured by this rule.

* Dunlop's *Letter to the Dean of Faculty*, p. 64.

CHAP. III. these two matters taken from the book of policy and inserted in the statute; and, therefore, according to the theory in question, they must be viewed as having no sanction in law. It is notorious, notwithstanding, that the power of the church, in these and many other particulars equally unnoticed in the terms of the act 1592, is not only unquestionable, but has never been disputed. The historian M'Crie, writing on this subject long before the disruption controversy had arisen, with his characteristic precision, and with a weight of authority which will long outlive the special pleading of legal disputants, has put in its true light the settlement of 1592. "The church of Scotland," he observes, "did not regard it or any other parliamentary grant as the basis of her religious constitution. This had been already laid down from scripture in her books of discipline. For all her internal administration she pleaded and rested upon higher grounds than either regal or parliamentary authority. What she now obtained was a legal recognition of those powers which she had long claimed as belonging to her, by scripture institution, and the gift of her divine Head. She had now a right *in foro poli et soli*, by human as well as divine laws, to hold her assemblies for worship and discipline, and to transact all the business competent to her as an ecclesiastical society, without being liable to any challenge for this, and without being exposed to any external interruption or hinderance whatever, either from individuals or from the executive government." * * * "Melville," he continues, "must have been highly gratified with this act of the legislature. He had now procured the sanction of the state, as well as the church, to a form of ecclesiastical polity which he regarded as agreeable to the scripture pattern, and eminently conducive to the spiritual and temporal welfare of the nation. Principles, for the maintenance of which he had often been branded as seditious and a traitor, were now

1592.

M'Crie's view of the settlement of 1592.

It amounted to a full recognition of those powers the Church had claimed as belonging to her, *jure divino*.

1592 to 1638. not merely recognised as innocent and lawful, but pronounced most just, good and godly, by the highest authority in the land. It was the triumph of the cause which had cost him so much labour and anxiety during eighteen years."

The settlement of 1592 established what Andrew Melville had laboured to secure.

Considering the completeness of this statutory recognition of the presbyterian government and spiritual liberties of the church, and considering also the lengthened and laborious efforts by which it had been secured, it might well have been thought she had now reached a haven of rest. The settlement now obtained was the result of a struggle which had lasted two and thirty years. In the course of that eventful period ample opportunities had been afforded to both parties thoroughly to understand each other, and fully to comprehend the matters which had been so long and so anxiously in dispute between them. The church had been sufficiently advertised of the disposition, on the part of the state, to usurp the control of even her most spiritual affairs. And the state, on the other hand, could not now be ignorant that what the church claimed and insisted on, as her divine right, was the power of self-government. And now, after the many conflicts in which these opposing principles of erastianism on the side of the state, and spiritual independence on the side of the church, had been so resolutely asserted—the state, in every case, though often perhaps reluctantly, giving way in the end—the legislative arrangement of 1592 seemed to come like a solemn treaty at the close of a long war, making provision, by its just though tardy concessions, for a solid and lasting peace. Such a peace, however, was not compatible with the fickleness and the despotism of James VI. Scarcely had he ratified the church's freedom when he set himself once more to overthrow it. What he could not endure was, that any power or influence should exist in the kingdom that would not be the tool of his capricious tyranny. The independence of the church, the manly spirit

It was the result of a struggle which had lasted thirty-two years.

The settlement of 1592 no sooner made than the king sets himself to overturn it.

CHAP. III.

and out-spoken freedom of its pulpits and its presbyterian courts, stood continually in the way of his arbitrary power. 1592 to 1638.

His accession to the crown of England increases his aversion to the anti-despotic Presbyterian Church.

His accession to the English crown in 1602 served to alienate him still more from the sturdy presbyterianism of the north, and encouraged him to persist with yet greater strenuousness, in the effort already begun, to force upon Scotland a system which he had found so much more pliable to his will. The very course, however, which he pursued in carrying this favourite scheme into execution, is the best evidence to prove that the right of self-government and of exclusive jurisdiction, in matters spiritual, was the recognised principle and ratified constitution of the presbyterian church of Scotland. His plan was to seduce or terrify the church into a surrender of her liberties; and in the artifices necessary for this end, his peculiar kingcraft was singularly fertile. Cunning and cruelty came equally to this monarch's hand, and with both he practised incessantly—now on the selfishness and now on the fears of the victims of his despicable policy. In his servile parliament he carried through without difficulty a succession of measures by which the political rank, the civil endowments, and the secular jurisdiction of the bishops were restored. But the statutes in which all this was done carefully abstained from attempting to confer on the revived estate of prelacy any power or function ecclesiastical; on the contrary, one of these statutes plainly admits that this could be done only by the church herself. "As concerning the office of the said persons to be provided to the said bishoprics," says the act 1597, "*in their spiritual policy and government in the kirk*, the estates of parliament have remitted and remits the same to the king's majesty to be advised, consulted, and agreed upon by his highness with the general assembly of the ministers at such times as his majesty shall think expedient to treat with them thereupon." But though the king and parliament began thus early to

Parliament restores bishops to their political rank,—but virtually admits that it cannot give them their spiritual office.

1592 to 1638. aim at the subversion of the settlement of 1592, it was not till 1610 that anything like a concurrence in their designs could be obtained from the church. Nor is it necessary to inform any one acquainted with the history of the period, that the sort of concurrence that was at length procured would never have been given but for the liberal employment of both bribery and persecution. The assembly was long hindered from meeting at all, lest the disgraceful manœuvres and purposes of the court should be exposed, and the church be put more effectually upon her guard: and when at length, after a shameful course of royal tergiversation upon the subject of its meetings, certain of its leading members dared to convene and constitute the assembly in the usual form, fourteen of the most distinguished ministers among them were, for so doing, cast into prison. One of their number,* writing to the countess of Wigton, from his place of confinement in the castle of Blackness, makes a statement on the subject of his imprisonment, which shows how well they understood both the king's designs and their own duty. "What am I," he says, "that I should have been first called to be a minister of Christ these fifteen years, and now, last of all, to be a sufferer for his cause and kingdom? to witness that good confession—Jesus Christ is the King of saints, and that His church is a most free kingdom, not only to convocate, hold, and keep her assemblies, but also to judge of all her affairs in all her meetings. These two points—*first*, that Christ is the head of His church: *secondly*, that she is free in her government from all other jurisdictions except Christ's—are the special causes of our imprisonment, being now committed as traitors for maintaining thereof, and are now waiting to confirm it with our blood." Prevented by the hand of violence from acting through the

Arts by which the king laboured to subdue the Church.

The Assemblies of the Church interdicted, and those ministers who convened imprisoned.

Welsh's letter to the Countess of Wigton dated from his dungeon.

* The Rev. John Welsh, son-in-law of Knox.

CHAP. III. regular and constitutional medium of their assembly, the more faithful and courageous of the ministers were not deterred from adopting every other competent means of letting their voice be heard against the usurpations upon the church's rights and liberties, that were now going on. When the parliament of 1606 had passed enactments still further maturing the secular arrangements for the restoration of prelacy, and, at the same time, investing the king with the supremacy over all "*causes* both spiritual and temporal within his said realm," a formal protest was drawn up against these proceedings, signed by forty-two faithful men, at the head of whom was the indomitable Andrew Melville. Trampling, however, with scorn, as it did, on all these efforts to withstand its erastianism, the court still felt that without something having the semblance at least of acquiescence on the part of the church in those innovations, their constitutional character was still open to question. But for this also matters were now ripe. The master-spirits of the church were either silenced or banished, and the rest yielding, some to the seeming hopelessness of their case, some to fear, and some to base corruption, the king had at length his miserable and disgraceful triumph. The assembly which met in Glasgow—if a meeting of bribed hirelings could be so called—answered the king's wishes to the full, though, as M'Crie remarks, that "as it would have been less insulting to the nation, so it would have been equally good in point of authority, if the matters enacted by it had been at once proclaimed by heralds at the market cross, as edicts emanating from the royal will." Still, however, the very forms of ecclesiastical jurisdiction and authority, which in conducting these proceedings were so studiously observed by the assembly, and according to which the civil power was so careful to have these radical changes introduced, distinctly show what the rights and privileges of the church

1592 to 1638.

Protest against the usurpations of the civil power signed by forty-two ministers in 1606.

The bribed Assembly, in which the king triumphed.

1592 to 1638. under the settlement of 1592 had been. In these forms the shadows of her chartered independence might still be recognised. Nor is it unworthy of notice, as illustrating the same thing, that it was not till the church herself had given her consent to the setting up of prelacy, that parliament interposed its authority in the way of withdrawing its sanction from presbyterianism, and ratifying the episcopal system of church government. Iniquitous, in a word, as were the means that were employed to bring it about, this revolution was effected professedly on the footing of its being the prerogative of the church to frame her own constitution and regulate her own affairs.

The independence of the Church in matters spiritual proved to have been her constitutional right, by the very means taken to overthrow it.

Before passing on from this period, it may not be unimportant to advert to a somewhat remarkable provision which was then introduced into the law of patronage. According to the law of 1592, as already noticed, the patron was allowed to retain the fruits of the benefice in his own hands, in the event of a presbytery refusing to induct a qualified minister. This was the only compulsitor which the statute 1592 authorized the civil power to employ, in the case of a dispute arising between the civil and ecclesiastical courts as to the settlement of a minister. The check, though a powerful one, was founded on a thorough discrimination between things civil and things ecclesiastical; and made no encroachment on the proper spiritual jurisdiction of the church. But this check was no longer to suffice, under the erastianism of the acts passed in 1612. As, under the prelatic system which these acts established, presentations to benefices were thenceforth to be directed to the bishops, instead of the presbyteries, it was provided that, in case of the refusal by the episcopal authorities to admit the presentee, "the lords of the privy council, upon the parties' complaint of the refuse, and no sufficient reason being given for the same, shall direct letters of horning, charging the ordinary

Bishops empowered to admit ministers, and made subject to civil penalties if they refused.

CHAP. III. to do his duty in the receiving and admitting of such a person as the said patron has presented." That is to say, the lords of privy council, acting as a court of law, and in that respect performing functions similar to those at present exercised by the court of session, was constituted the ultimate judge of the reasons on which a presentee should or should not be admitted to a cure of souls; and, in the event of their judgment being for the admission, while that of the bishop was against it, this enactment armed the privy council with authority to compel him, under the penalties of civil law, to induct the presentee. This provision was, no doubt, in strict harmony with the erastian principle then subsisting, of the church's subjection, in matters spiritual, to the control of the state. And yet the power which it conferred had limits. The only kind of presentee whom it enabled the patron to thrust, in the circumstances above described, into a parish, as the act itself bears, was a "minister once received (*i. e.*, already received) and admitted into the function of the ministry, being then still undeprived." Even the gross erastianism of 1612, when the royal supremacy in matters spiritual was the acknowledged law both of church and state, never contemplated anything so monstrous as to compel ordination—to oblige the authorities of the church to confer the office of the holy ministry contrary to their own sense of duty, and at the mere bidding of a civil tribunal. And yet the reader will find, in the sequel of this history, that an outrage which was not dreamt of by the despotic king and the servile parliament of 1612, has been practised by the courts of law, and sanctioned by the parliament, of our own day; and that too under a state of things, in which both the act 1612 and the royal supremacy had for a century and a half ceased to exist!

1592 to 1638.

Limitation of the civil court's right to compel the bishop.

Bishop not compelled to ordain a minister, but only to admit him if already ordained.

Erastianism of 1843 worse than that of 1612.

Although the changes now noticed had entirely subverted the constitution of the church as established by law, they

1592 to 1638. were unsupported by the great body of the Scottish people. Both they and the best of their ministers remained as firm as ever in their attachment to those principles and to that order of things for which the reformers had all along contended, and which the settlement of 1592 had recognized and ratified. Banished from their parishes on this account, such men as the celebrated Bruce and Dickson carried with them, into the remoter districts into which they were driven, the powerful influence which their talents and worth imparted, and thus served to spread the fire which their oppressors meant to extinguish. Under the framework of a prelatic and erastian establishment, the heart of Scotland continued sound and stable in its devotion to presbyterianism and religious liberty. The former was the religion of the court, but the latter remained the religion of the country; and to this cause alone can be ascribed the suddenness and the completeness of that overthrow which prelacy and erastianism received. In the noble document in which Melville and his fellow protestors had addressed the parliament of 1606, the members of the legislature were solemnly warned that in lending themselves to the subversion of the church's freedom they were laying the foundation for the destruction of their own. "If any succeeding prince," said the protestors, "please to play the tyrant, and govern all, not by laws but by his will and pleasure, signified by impious articles and directions, these bishops shall never admonish him, as faithful pastors and messengers of God; but, as they are made up by man, they must and will flatter, pleasure and obey man." The warning was disregarded then, but its truth became matter of bitter experience, when the grinding and intolerable tyranny of which the king-made prelates were the ready tools, prepared them for the memorable outbreak of universal impatience and indignation which

The court prelatic, but the country still presbyterian.

Reaction against prelacy.

CHAP. III. overthrew in a day a system it had cost so many years of craft and cruelty to raise. 1592 to 1638.

The events of 1638; the second Reformation.

It is not necessary to dwell long on the events of 1638. The period is commonly and justly known in Scottish ecclesiastical history as that of the second reformation. At the very moment when the despotism of the crown had reached its climax, and was carrying with a high hand a complete lordship over both church and state, the overstrained bow recoiled—despotism was felled by the rebound, and liberty civil and ecclesiastical were once more restored. So strong and resistless was the national feeling which broke out in 1637, and embodied itself in the famous national covenant, that the king, Charles I., regardless as he usually was of the popular will, saw the necessity of at least appearing to yield. Nothing, however, could be more base than the duplicity which, on this as on so many other occasions, marked his proceedings. He had consented to the calling of a free general assembly, and had appointed the Marquis of Hamilton to be present, as the king's representative and commissioner. It is his majesty's secret correspondence with this nobleman, now come to light, which reveals the shameful dishonesty of this so-called martyr-monarch.

The famous Glasgow Assembly, and the duplicity of Charles I.

Writing in June 1638, and before the convoking of the assembly had been fully agreed to, he says, "I give you leave to flatter them with what hopes you please, so you engage not me against my grounds, and in particular that you consent neither to the calling of parliament nor general assembly, until the covenant be disavowed and given up; your chief end being to win time, that they may not commit public follies *till I be ready to suppress them.* This I have written to no other end than to show you I will rather die than yield to those impertinent and damnable demands (as you rightly call them), for it is all one as to yield to be no

1638. king in a very short time." And again, in October following, when the assembly had been summoned, and the time of its meeting was drawing near, his majesty conveys to his commissioner such honourable instructions as these:—"And as for this general assembly, though I can expect no good from it, yet I hope you may hinder much of the ill: first, by putting divisions among them concerning the legality of their elections, then by protestations against their tumultuous proceedings. And I think it were not amiss, if you could get their freedom defined before their meeting, so that it were not done too much in their favour."*

The King's letters to the Marquis of Hamilton.

But neither the arms nor the artifices of the king could avail. The Marquis of Hamilton did his utmost to give effect to the wishes and designs of his royal master, but in vain. The same watchful providence which had raised up a Knox to confront the tyranny of Rome in 1560, and a Melville to withstand the erastian despotism of the Regent Morton, and of the black acts of James VI., had prepared an Alexander Henderson for the emergency of 1638. This remarkable man, originally a cold conformist to the order of things, under which he had entered on the ministry, had been led by curiosity, sometime thereafter, to hear a sermon preached by one of its chief opponents, the eminent and godly Robert Bruce. Hiding himself out of sight in an obscure corner of the church, unwilling, and perhaps ashamed to be seen in such society, the Master for whose service he was destined found him, and one of the arrows of the King entered his conscience with a force so resistless that he retired from the congregation another man. The text from which Bruce preached was this—"Verily, verily, I say unto you, He that entereth not by the door into the sheepfold, but climbeth up some other way, the same is a

Alexander Henderson, a leader raised up by Providence, in this great crisis of the Church.

Henderson's conversion.

* Peterkin's *Records of the Kirk of Scotland*, pp. 81, 93.

CHAP. III. thief and a robber." John x. 1. The word was made quick 1638
and powerful: and this convert to the persecuted cause of the old reformation principles proved their most powerful champion when the crisis came. Elevated by the unanimous call of his brethren to the chair of the general assembly, he conducted its whole proceedings in the midst of unexampled difficulties and dangers, with a wisdom, a firmness, and a dignity which must always make his name venerable in the estimation of every lover of truth and liberty. The grand question between the church, as represented by the assembly on the one hand, and the state, as represented by the king's commissioner on the other, was simply the old question of the church's independent jurisdiction in matters spiritual.

The King offers concessions; but refuses to renounce the supremacy in matters spiritual.

The king, pressed by the necessity of the times, offered, through his commissioner, large and important concessions, but still they were concessions which implied and required a reservation of the royal supremacy in things ecclesiastical. This was a point which Charles was determined not to yield. Henderson, to whom as moderator it belonged to meet the commissioner's representations and arguments on the subject, after discoursing "most eloquently, and in most learned terms," on "the king's majesty's royal prerogatives in church matters," and thanking his majesty for so far meeting their views, intimated at the same time the impossibility of their consenting to any arrangement that would subject the church to any king but Christ. "We will do to his majesty," said Henderson, "what the Jews did to Alexander the Great. When he came to Jerusalem he desired that *his picture might be placed in the temple.* This they refused to grant unto him, as being unlawful so to pollute the house of the Lord: but they granted him a thing less blameable, and far more convenient for the promulgation of his honour; to wit, that they should begin the calculation of their years from the time that he came to Jerusalem; likewise, that

Henderson's address to the King's Commissioner.

1638. they should call all their first-born by the name of Alexander: which thing he accepted. So whatsoever is *ours*," said Henderson, "we shall render to his majesty, even our lives, lands, liberties and all; *but for it that is God's*, and the *liberties of his house*, we do think that neither will his majesty's piety suffer him to crave, neither may we grant them even though he should crave it."*

What the Jews did for Alexander the Great,—the Assembly will do for the King.

The royal commissioner finding the assembly immovable on this cardinal question, took the decisive step of declaring it dissolved, and withdrawing from it altogether. Hesitation on the part of the assembly at that moment might have ruined all; but, strong in the righteousness of their cause, and not fearing the wrath of the king, they kept their ground. "All that are here know," said Henderson, addressing the house when the commissioner had retired, "the reasons of the meeting of this assembly; and albeit we have acknowledged the power of christian kings for convening of assemblies and their power in assemblies, yet that may not derogate from Christ's right, for He hath given divine warrant to convocate assemblies whether magistrates consent or not; therefore, seeing we perceive men to be so zealous of their master's commands, have we not also good reason to be zealous toward our Lord, and to maintain the liberties and privileges of His kingdom? Ye all know that the work in hand has had many difficulties, and God has borne us through them all till this day; therefore it becometh us not to be discouraged now by anything that has intervened, but rather to double our courage when we seem to be deprived of human authority." Animated by the noble spirit of their moderator, the assembly not only continued their sittings, but proceeded to business as if nothing had occurred. Their sessions lasted for a month: never

The Commissioner declares the Assembly dissolved, and withdraws.

The Assembly continues its sittings, and restores Presbyterianism.

* MS. Journal of Assembly, 1638, in possession of D. Laing, Esq., as quoted in Dunlop's *Letter to Dean of Faculty.*

CHAP. III. was a work of reformation conducted and carried through 1638.
with greater energy and decision; and yet there was no rashness, no innovation. All that they did was to remove the errors and corruptions which erastianism had introduced, and to restore the original constitution of the church. Prelacy was set aside with the whole train of abuses it had sanctioned, and presbyterianism in all the scriptural purity of its doctrine, discipline, worship, and government revived. The church was set on its old foundation, so that when this memorable assembly rose, Henderson could say, "We have now cast down the walls of Jericho, let him that rebuildeth them beware of the curse of Hiel the Bethelite."

Steps taken by Glasgow Assembly, in reference to non-intrusion and the law of patronage.

It will be remembered that, under the statutes 1567 and 1592, by which the constitution and liberties of the church had been formally ratified, the law of patronage was still maintained. This obnoxious law did not escape the attention of the assembly of 1638. In the second book of discipline, the system which it recognized had been specially set down as one of the heads of reformation to be craved. To reduce it within those limits prescribed by the laws of the church, the assembly revived and enforced the principle of non-intrusion,—by which it had been declared and provided, that no pastor should be intruded on any congregation contrary to their will. But for this right reserved to the members of the church, and for the absolute control admitted to belong to the church courts in the whole process of the examination and admission of ministers, the law of patronage could never by possibility have been reconciled with that exclusive jurisdiction in matters spiritual which had been, from the reformation downwards, the grand characteristic of the Scottish presbyterian church. Even within these important limitations, it was still a yoke and burden from which the church longed to be free. And, accordingly, its removal was

1638 to 1660. earnestly sought, subsequently to the assembly of 1638, and at length obtained. The preamble of the act of parliament 1649, by which this last fetter was struck from the church's neck, is worthy of peculiar notice,—bringing out as it does so clearly the high and sacred grounds on which this reform was solicited by the church, and conceded by the civil power. "Considering," says the act 1649, "that patronages and presentations of kirks is an evil and bondage under which the Lord's people and ministers of this land have long groaned, and that it hath no warrant in the word of God, but is founded only on the canon law, and is a custom merely popish, brought into the kirk in time of ignorance and superstition; and that the same is contrary to the second book of discipline, in which, upon solid and good ground, it is reckoned among abuses that are desired to be reformed, and unto several acts of general assemblies, and that it is prejudicial to the liberty of the people and planting of kirks, and unto the free calling and entry of ministers into their charge: and the said estates (of parliament) being willing and desirous to promote and advance the reformation aforesaid, THAT EVERYTHING IN THE HOUSE OF GOD MAY BE ORDERED ACCORDING TO HIS WILL AND COMMANDMENT, do discharge for ever hereafter all patronages and presentations of kirks, whether belonging to the king or any laic patron, presbyteries, or others within the kingdom."

The Church applies to parliament for the abolition of patronage.

Preamble of the Act 1649 abolishing patronage.

It was during this interesting and eventful period, so remarkable not merely for great constitutional reforms, but for the revival of true religion and vital godliness throughout the land, that the church, in the exercise of her inherent and now once more ratified independence, adopted a new confession of faith. Up till this time, her doctrinal standard was the confession of Knox, prepared in 1560. It was superseded in 1647, by the Westminster Confession;

Church adopts Westminster Confession of Faith in 1647.

CHAP. III.

which continues to this hour the creed of the church. This important measure is singularly well fitted to illustrate the mutual relations of church and state, as they existed in Scotland. The question—What is the true faith?—the church held to be one which she is bound to determine for herself. But, while thus considering herself as not only competent, but under the most solemn obligation, to frame, with God's word in her hand, and under her responsibility to Christ her Head alone, her articles of faith, she claimed no authority to force her conclusions upon the state, and to require the civil authorities to sanction and support them, at her instance, and on her authority. The state is subject to Christ as well as the church; and that not indirectly through the church, but immediately, as a primary ordinance of God. Such being its position, it is as much bound as the church to judge for itself. It has, indeed, no more right to force its creed upon the church, than has the church to dictate a creed to the state. But in the sight of God it is neither called on, nor is it at liberty, to lend the countenance of the state to any system of doctrine which it does not judge to be agreeable to the word of God. In the free use of this independent right of judgment, the Scottish legislature ratified, in 1649, the Westminster Confession of Faith.

1638 to 1660.

Westminster Confession ratified by law in 1649.

The church may be said to have now reached the *ideal* of her relations with the state. Endowed, and yet free, she stood on a high vantage ground for executing her divine commission, in dispensing the ordinances of the gospel to all ranks and conditions of men; and great was the blessing which rested on the land while this goodly order was maintained. Then "every parish had a minister, every village had a school, every family almost had a bible; yea, in most of the country, all the children of age could read the scriptures, and were provided of bibles either of their parents or

Prosperous state of religion from 1638 to 1660.

1638 to 1660. ministers. Every minister was a very full professor of the reformed religion, according to the large confession of faith framed at Westminster. None of them might be scandalous in their conversation, or negligent in their office, as long as a presbytery stood. I have lived many years in a parish where I never heard an oath, and you might have ridden many a mile before you heard any. Also, you could not, for a great part of the country, have lodged in a family where the Lord was not worshipped, by reading, singing, and public prayer. Nobody complained more of our church government than the taverners, whose ordinary lamentation was, their trade was broke, people were become so sober." *

This bright period followed by a storm of persecution.

This bright period, extending from the Glasgow assembly in 1638 till the restoration of Charles II. in 1660, as it had been preceded, so was it followed by times of great affliction and trial. It appears in the heart of the 17th century like a few sunny hours in the middle of a dark and cloudy and tempestuous day.

The royal supremacy, in matters spiritual was the persecutor's scourge from the restoration to the revolution.

It is not the business of this work either to record or analyse the events which have branded the very name of the Stewarts with infamy. From 1660 till the revolution in 1688, Scotland groaned under a bloody and grinding tyranny; and it is a memorable and significant fact, that the royal supremacy in matters spiritual was, during all that period, the oppressor's scourge. Nothing could more unequivocally prove how thoroughly the opposite principle of the Headship of Christ, as the sole king and governor of His church, had been wrought into the very mind and heart of the Scottish people than this,—that rather than sanction, by word or deed, the authority in matters spiritual, usurped by Charles II. and his brother and successor James VII., not only did 400 ministers vacate their livings

* Kirkton's *History of the Church of Scotland*, pp. 63, 64.

CHAP. III. and submit to be hunted like beasts of prey, but hundreds and thousands of all ranks of the people, down even to the humblest orders of society, were contented to be given up to prison, to torture, and to death. Indeed, had any further evidence than what has been already furnished been required, to identify the constitution of the reformed presbyterian church of Scotland with the doctrine of Christ's Headship over it, and to prove how completely her consequent right of self-government had been acknowledged and ratified by law, that evidence would be found in the very statute by which her chartered liberties were overthrown. 1660 to 1688.

Act 1662 restoring royal supremacy.

The act 1662, c. 2, by which the king's supremacy in all causes, spiritual as well as temporal, was established, "casses and annuls all acts of parliament by which the sole and only power and jurisdiction within this church doth stand, in the church, and in the general, provincial, and presbyterial assemblies, and kirk sessions." As the celebrated act rescissory—by which the entire legislation of the period between 1638 and 1660 had been, at one wild and reckless blow, swept from the Scottish statute book—was already passed, the acts alluded to in the enactment of 1662, above quoted from, were and could be no other than those of 1592, and the others of a similar nature, backwards to 1567. "We have thus the acknowledgment of the keenest supporters of the doctrine of the supremacy of the civil magistrate over the church, that, under the presbyterian church government, as established by law in 1592, the SOLE power and jurisdiction within the church *did* stand in the church and church courts, independent of, and not subordinate to, the supreme civil power." *

The time, however, was now drawing on when this intolerable yoke was to be broken, and the despotic race

* Dunlop's *Letter to Dean of Faculty*, pp. 70, 71.

1660 to 1688. who imposed it hurled in righteous judgment from their throne. In the attempt to force upon a reclaiming and resolute people the prelatic and erastian church government of the restoration, it is computed that not fewer than eighteen thousand individuals became, in one form or other, the victims of persecution.

Severity of the persecution the numbers who suffered.

Nearly two thousand were banished to the colonies, of whom many died by shipwreck, and many more sunk under the hardships and destitution of their cruel exile. Multitudes meanwhile languished at home in loathsome dungeons, and that not unfrequently after being subjected to tortures, at the very recital of which the blood runs cold; about four hundred were judicially murdered under the forms of law; and at least an equal number without even the mockery of a trial. As Defoe has truly and touchingly observed, "It would be endless to enumerate the names of the sufferers; and it has not been possible to come at the certain number of those ministers or others who died in prison and banishment, there being no record preserved of their prosecution in any court of justice, nor could any roll of their names be preserved, in those times of confusion, anywhere—but under the altar and about the throne of the Lamb, where their heads are crowned and their white robes seen, and where an exact account of their number will at last be found." *

Touching statement of Defoe.

To complete this summary of the testimonies to the independence, in matters spiritual, of the Church of Scotland, which her constitution and history supply, it now only remains to examine the period of the revolution. Such as the statutes passed at the accession of King William left her, she continued, in so far as her relations with the state are concerned, till 1843; with the single, though not un-

The Revolution settlement.

* M'Crie's *Sketches*, pp. 551, 552.

CHAP. III. important, exception of the act of Queen Anne, restoring patronage in 1712. It was on the footing of the revolution settlement, modified in that one particular, the church stood when she entered on her late memorable conflict. To have a distinct and accurate understanding, therefore, of the principles on which that settlement proceeded, and of the powers and privileges which it ratified as belonging to the church, is obviously an essential preparative for the study of the disruption controversy. 1688.

For this purpose it may be necessary to glance first at the position in which the revolution found the church; and second, at the position in which, as regarded matters ecclesiastical, it found the state. The revolution found the church standing, so far as any acts and proceedings of her own were concerned, on the platform to which she had been restored by the famous Glasgow assembly of 1638. True, indeed, she had subsequently, in 1647, adopted the Westminster, instead of her old confession of faith; but both the doctrines of that standard, and the act by which she had assumed it, were only a more emphatic expression of that right of self-government, inherent and inalienable, on which the assembly of 1638 had so firmly taken its ground. The restoration, no doubt, introduced great changes, but they were changes in the constitution of the state and not of the church. The church, as such, had not only no hand in making them, but strenuously, and at all hazards, resisted them. When the Regent Morton set up the system of prelacy in the century before, he sought and obtained, through the convention of Leith, something that had the semblance at least, of an ecclesiastical sanction for the deed. In like manner James VI., in reviving that system, and in superadding to it the royal supremacy in matters spiritual, was at pains, after his own peculiar fashion, to secure the concurrence of the church.

Position in which the Revolution found the Church.

1688. It was otherwise with his grandson Charles II. Not contented with the despotic maxim of his royal contemporary, Louis the XIV., *l'etat c'est moi*,* he added to it this other significant sentence—*l'eglise c'est moi*.† In the exercise of this usurped authority, he restored prelacy and patronage, and placed both the one and the other among the laws of the land; writing them, by a fierce and remorseless persecution, in letters of blood. But these laws had no place in the statute book of the church. Under the storm which raged for a quarter of a century, the church remained, in her creed and constitution, unaltered to the end.

Nothing had been changed by the Church.

While this, then, was the position in which the revolution found the church, in what position, as regards ecclesiastical affairs, did it find the state? It found the confession of faith set aside. It found a complete supremacy over all matters and causes ecclesiastical vested in the crown. It found prelacy and patronage the statute law of the realm. From this simple statement, it will at once be seen that, on the supposition of the revolution government designing to re-establish the church of 1567, of 1592, of 1638,—the church of Knox, and Melville, and Henderson,—it was not necessary that any movement whatever should be made on the part of the church herself. It needed nothing more than a movement on the part of the state. A church movement was indispensable in 1638, because, through the combined influence of force and corruption, the church had professedly given her consent to both the prelacy and the erastianism of James I. The church needed, therefore, to undo what herself had done, in order to return constitutionally to her original presbyterianism and spiritual independence. The case was entirely different in 1688. She had changed nothing of that order of things which existed

The position in which the Revolution found the State.

* I am the state. † I am the church.

CHAP. III. from 1638 to 1660: and, therefore, in order to carry out 1688.

It was the State alone, and not the Church, which needed to make any change of its laws at the Revolution.

the principles, and enjoy the liberty which that order of things secured, she had nothing whatever to alter at the revolution. It will be found accordingly, on examining the facts of history, that the supposition now made was precisely what actually occurred. The state simply placed itself in harmony with the church; repealing those laws that stood opposed to her principles and government, and enacting others in accordance with them.

Changes actually made by the State upon its own constitution, with reference to matters ecclesiastical.

These important proceedings commenced with the abolition of episcopacy by the statute 1689, c. 2, and by conferring, in the following year, the privileges and emoluments of the establishment upon the presbyterian church. The manner, too, in which this was done is most deserving of notice. The ministers "outed" from their benefices for non-conformity, under the state-created prelacy of Charles II., were ordained by the act 1690, c. 2, to have "forthwith free access to their churches, that they might presently exercise their ministry in these churches, without any new call thereto." That is to say, the legislature, by this enactment, not only proclaimed their extrusion to have been an act of gross injustice, but held that the tie between them and their flocks, not having been dissolved by the church, had been all the while entire. This act, then, of the revolution settlement proceeded on the assumption that matters spiritual were beyond the state's province, and that spiritual functions could neither be given nor taken away by the civil power. The state, having still farther, by the

Act asserting the royal supremacy in matters spiritual, repealed.

act 1690, c. 1, repealed "the act asserting his majesty's supremacy," declaring it "in *the whole heads, articles, and clauses* thereof, to be of no force or effect in all time coming," had thus fairly retired from the proper territory of the church; and denuded itself of all claim to exercise a governing authority in spiritual things.

1688. This was not all, however, that was needful to be done by the state, in order to give the full sanction of the civil law to the ancient rights and prerogatives of the church. The "act rescissory" had swept away the entire body of legislation in favour of the church, such as it subsisted at the period of the restoration. At the era of the revolution, therefore, neither the Westminster confession of faith, nor the great constitutional charter of 1592, had the force of statute law. Both of these bulwarks of the church's freedom were now restored. By the act 1690, c. 5, the confession of faith, *verbatim et literatim*, was engrossed in the statute-book, and thus made part and parcel of the law of the land. It is not necessary here to show how distinct and full are the utterances of this confession on the great question of the church's independence in matters spiritual. This will come out sufficiently in the details of the disruption controversy. Two circumstances may, however, be mentioned in passing—both of them sufficiently significant of what was understood, in the seventeenth century, to be the doctrine of the Westminster confession upon that subject. The very men who had a chief hand in framing it, and under whose auspices it was adopted by the church in 1647, Gillespie, Rutherford, and Henderson,* are well known to have been among the most learned, able, and resolute opponents of erastianism—as being a direct usurpation upon the royal prerogatives of the Lord Jesus Christ. Is it conceivable that either these men, or a church which only nine years before had recorded its views in the strong words and stronger deeds of the Glasgow assembly, should have sanctioned a confession at variance with what they held to be so vital as spiritual freedom? But, furthermore, their acceptance of the confession is not more decisive of

Westminster Confession ratified by law, and the settlement of 1592 restored.

Historical illustrations of the true meaning of the Westminster Confession, on the subject of the Church's independence

* Henderson died in 1646; but he was one of the commissioners to the Westminster assembly from which the confession proceeded.

CHAP. III. the true and intended meaning which was then put upon it, 1688.
than was the refusal of it by the erastian parliament of England. The very chapters of the confession to which, in the recent controversy, the supporters of the church's intrinsic jurisdiction were accustomed to appeal, were precisely the chapters which the English parliament of the Westminster assembly period refused to print, and finally laid aside. "These propositions," says Neale, after naming the chapters in question, "in which the very life and soul of presbytery consists, never were approved by the English parliament, nor had the force of law in this country; but the whole confession, as it came from the assembly, being sent into Scotland, was immediately approved by the general assembly and parliament of that kingdom, as the established doctrine and discipline of their kirk."*

The royal supremacy was set aside in 1690 avowedly on the ground of its being "inconsistent" with the government of the Presbyterian Church.

Had the erastian spirit of the English parliament presided over the settlement of the affairs of the church of Scotland in 1690, the Scottish estates would never have ratified the Westminster confession of faith. When they incorporated it with the law of the land, they knew what they were doing —they were well aware that they were recognising a distinct and independent government in the presbyterian church. And, accordingly, in preparing the way for this measure, by repealing "the royal supremacy," they did so, as the statute runs, on the express ground, that "it was inconsistent with the establishment of the church government now desired." Words more significant could not have been employed. They proclaim the conviction of the Scottish legislature, that erastianism and the free constitution of the

* *History of the Puritans*, vol. iii., p. 321. The points to which Neale alludes in the same passage, as having been called in question by Collyer, viz., that the confession yielded to the magistrate a power of convening assemblies, and was silent on the divine right of presbytery, &c.—are well known to have been expressly guarded by the act of the general assembly in which the Westminster confession was sanctioned.

1688. presbyterian church could not stand together. They abolished the one, because they designed to ratify and maintain the other.

The law of patronage repealed.

To render still more complete the identity of the church, thus recognized and established by law, with the church of the reformation, the act 1592 was "revived, renewed, and confirmed in '*the whole heads thereof*,' except that part of it relating to patronages." (Act 1690, c. 5.) By this act, not only the presbyterian constitution, but the inherent right of self-regulation and government, as a privilege "granted by God" to His church, were formally ratified. Nor was this all: intimation was at the same time given in this act, that the only matter in respect of which, by the settlement both of 1567 and 1592, there had been a certain interference with the church's perfect freedom of action, was now to be done away. The patronage section of the act, 1592, was not included, but expressly set aside, in the ratification which that act now received. The "astricting" clause, whatever its force may have been, was expunged in 1690 from the statute book, and had no place in the revolution settlement. The system of providing ministers for vacant parishes, introduced in the room of the old law of patronage, was this:—"In case of the vacancy of any particular church, and for supplying the same with a minister, the heritors of the said parish, being protestants, and the elders, are to name and propose the person to the whole congregation, to be either approven or disapproven, and if they disapprove, that the disapprovers give in their reasons, to the effect the affair be cognosced upon by the presbytery of the bounds, at *whose judgment*, and by *whose determination* the calling and entry of a particular minister is *to be ordered and concluded*."

The astricting clause had no place in the revolution settlement.

The Act 1690 regulating the settlement of ministers.

It has been sometimes hastily assumed, that what this act introduced was simply the old law of patronage in a

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new form, vesting the rights which originally belonged to individual patrons in the protestant heritors of the parish, and in the elders of the congregation, under the reservation of a right on the part of the people to approve or disapprove. On this subject there is an interesting anecdote related by Wodrow, and quoted by Dr. M'Crie in his evidence on the law of patronage, before a committee of the house of commons. "In May, 1710," says Wodrow, "before the question (that is, the restoration of patronage by Queen Anne's act) was stirred,—in converse with the late Lord Advocate, Sir James Stewart, of Goodtrees, anent the act of parliament abrogating patronages, and declaring the choice of heritors and elders in what is now termed calling of a minister, he told me that he did draw the act. There were with him three lawyers, and there were three ministers advised with,—Mr. Gab. Cunningham, Mr. H. Kennedy, and Mr. Rule. He tells me that their design was to bring the matter of settling ministers as near the ancient primitive *χειροτονια* as the circumstances did allow of, at this time. That they were carefully cautious not to bring the heritors and elders in the patron's room, in the matter of presentation, when the patrons were abolished, which, in his judgment, had been as great, if not worse slavery, and an establishing I do not know how many patrons in the room of one. And, therefore, they were very careful to abstract the word *present*, which might have imported something like this, and of design put in the word *propose*, in its room. That he wonders ministers and the most part of persons confound these two, and suppose that the heritors and elders are now in the patron's place, when they only are to propose, and the people are to approve; and if they disapprove, give their reasons to the presbytery, who are finally to determine on the matter. The presentation was entirely abolished, whether in one person or in many, and the choice lodged in the

1688.

Anecdote, told by Wodrow, as to the true meaning of the Act 1690.

1688. hands of the people, at the determination of the presbytery."*

Of the three ministers alluded to, as having been advised with in the framing of the act, there cannot be the vestige of a doubt, that they were all of them decided opponents of patronage in every form, and advocates of the principle laid down in the first book of discipline, that "it appertaineth to the people, and to every several congregation, to elect their own minister."† It is not likely, to say the least of it, that such men would have lent themselves to the framing of a statute which did not substantially secure the principle of popular election. That, in point of fact, the statute was worked in harmony with that principle when first put in operation, and for a considerable period thereafter, there is ample and conclusive evidence. On this point it may be enough to refer to "*Pardovan's Collections*," published in 1708, and recommended to general use by the assembly of 1709. Under the first title of the first book, headed, "of the election and ordination of pastors," the practice of the church under the act, 1690, is thus described: "when the presbytery are well informed that a parish for the most part is unanimous to elect a fit person to be their pastor, then they are to appoint one of their number to preach to the vacant congregation, and to intimate that elders, heritors, and heads of families do meet at the church, in order to the electing of a fit person to supply their vacancy."

The three ministers who were consulted in the framing of the Act 1690 were all supporters of the principle, that it belongs to the congregation to elect their minister.

Pardovan's Collections show that the Act 1690 was worked as a system of popular election.

Before leaving the statute now under consideration, it may be proper to notice that particular provision contained in it, by virtue of which the members of the congregation, in the event of their disapproving of the person proposed to be their minister, were to give in their reasons. Occasion

Position of the people and of the Church courts, respectively, under the Act 1690.

* Dr. M'Crie's *Evidence before Anti-patronage Committee of House of Commons*, p. 361.

† *Defence of the Rights of the Christian People*, by the Rev. Dr. Cunningham, pp. 111, 112.

CHAP. III. will arise in the sequel for recurring to this point. It is enough at present to observe, *first*—that there is no restriction as to the reasons which the people might competently state; there was nothing to prohibit them from alleging, and the presbytery from finding it a sufficient ground for setting the proposed minister aside, that, in the judgment of the congregation, he had not gifts to their edification: *second*—the presbytery were not required "to cognosce upon the *reasons*," that is—to give a judicial decision sustaining or refusing them; but simply to cognosce upon "the affair," that is—upon the question whether, in the whole circumstances of the case, they ought to proceed with the settlement: and *third*—the decision of the church court was *final*. The "calling and entry" of the minister; the entire process from first to last, was to be "*ordered and concluded*" according to the "judgment and determination" of the church courts. Admitting, therefore, in their fullest extent, the defects which undoubtedly belonged to the statute in question, not only is it capable of the clearest proof that the practice under it was little else than "a regulated system of popular election;" but, further, it is undeniable that, strictly and legally, it left the jurisdiction of the church untrammelled and entire. 1688.

Review of the conflicts of the Church, from 1560 to 1689.

Such, then, was the famous revolution settlement of the church of Scotland; and now, looking back from this point, along the line of history traced in the foregoing pages, what do we perceive but a succession of conflicts, in which, as in the field of Waterloo, the same posts continue from beginning to end to gather around them the heat and fury of the battle. The independence of the church in matters spiritual, and the rights of her christian people in the choice and settlement of their ministers, are the Hougomont and the la Haye Sainte of Scottish ecclesiastical history. Assailed in turn by the stern and selfish Regent Morton, by the fickle,

1688. mean, and crafty James VI., by the blindly obstinate and intolerant Charles I., and finally, by the headlong recklessness of the brothers Charles II. and James VII., and by the remorseless cruelty of their unprincipled governments—these posts were ever stoutly defended; or if lost for a time, yet in the end were uniformly recovered by the constancy of the presbyterian church. Sometimes these strongholds —these keys of the church's position—were approached by the way of sap and mine—sometimes by sudden surprise—sometimes by open and undisguised assault. By such means the civil power once and again succeeded in hoisting over them the flag of erastian ascendency; and it is a most memorable and instructive fact, that as often as it did so, the flaunting standard on which the sword and the other insignia of the royal supremacy in matters spiritual appeared, was always the emblem and accompaniment of a prelatic church. The old blue banner of presbyterianism had one unvarying legend—"For Christ, His crown, and covenant." The testimony of the latest of the martyrs—that of James Renwick, in 1688, when the overthrow of despotism and the accession of King William were already at hand—was as clear and uncompromising as any which Knox had ever rung in the ears of Queen Mary, or Melville in those of her contemptible son. "I die," said he, "owning the word of God as the only rule of faith. I leave my testimony against popery, prelacy, and erastianism; and particularly against all encroachments upon Christ's rights, the Prince of the kings of the earth, who alone must bear the glory of ruling His own kingdom." In these few but emphatic words, there breathes the very spirit of the presbyterian church of Scotland.

The royal supremacy always associated with prelacy: spiritual independence with presbytery.

Testimony of Renwick, the last of the Scottish martyrs.

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THE EIGHTEENTH CENTURY.—THE DARK AGE OF THE SCOTTISH CHURCH.

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THE period which the present chapter is designed to embrace, extends from the revolution settlement to the year 1833; and will, therefore, conduct us to the threshold of the great conflict which terminated in the disruption. Though longer somewhat than the period already traced, it will not require so minute an examination. It has, in so far as ecclesiastical history is concerned, fewer epochs and fewer organic changes. In studying those aspects and bearings of it which have to do with the subject of this work, it is not so much with the legislation of the state as with the administration of the church itself we shall have to deal. From the reformation to the revolution the conflicts of the church were, for the most part, external. Assailed from without, her struggles were then chiefly directed to the maintenance of her own constitution and liberties against the usurpations of the civil power. Subsequently to the revolution, it was, to a large extent, an internal warfare that occupied her courts. The foes of her principles were those of her own household. This latter period, however, is one, the study of which, at least in its more prominent outlines, is essential to anything like an intelligent apprehension of the real merits of the disruption controversy. If the many arduous contests with the state, during the century and a half which preceded the accession of King William, reflect a light so clear and strong on the characteristic principles of that constitution of the church, which again and again the state was brought to acknowledge and ratify,

1688 to 1833.

Characteristics of the period embraced in this chapter.

Conflicts of the Church during this period chiefly internal.

1688 to 1833. and which it finally established at the revolution; so, on the other hand, the contests within the church, which were so keenly prosecuted throughout the greater part of the century and a half that elapsed between 1688 and 1833, are not less instructive in deciding the question—Which of the two parties engaged in those internal contests was standing in the old paths, and vindicating the constitutional principles of the church of Scotland?

The contests of the 18th century throw much light on the character of the parties engaged in the ten years' conflict.

It has been already noticed, that the period now to be reviewed has little, comparatively, to do with state legislation. The only proceedings, indeed, in which the state intromitted with the revolution settlement at all, were the treaty of union between the two kingdoms, effected in 1707; and the restoration of patronage by the statute of Queen Anne in 1712. Both of these measures have an obvious and important bearing on the recent conflict, and will now, accordingly, require to be briefly considered.

The Union, and the causes which led to it.

From the period of the death of Queen Elizabeth in 1602, and the consequent accession of James VI. of Scotland to the English crown, that monarch and his successors had governed both kingdoms. But though ruled by the same sovereign, they were still in other respects independent—each having a distinct legislature, and a distinct executive government of its own. The change which the revolution had effected in the settlement of the crown was not long in bringing these independent powers into play. At the time that the royal succession beyond William and Mary had been fixed in the line of Anne, that princess had a family. Her children, however, having died before she came to the throne, and there being now no prospect of issue in this branch of the royal house, it became necessary to provide for the contingency which had thus arisen. An act was passed, accordingly, in 1700, by the English parliament, settling the crown, on the failure of Queen Anne, upon the

CHAP. IV. 1688 to 1833.

Princess Sophia, Electress Dowager of Hanover, and her descendants, being protestants. In these circumstances, it was evidently a matter of vital moment to the peace of the two countries, and to the integrity of the crown, that the Scottish legislature should adopt a similar course. If, instead of doing so, they should think fit, upon the death of Anne, to recall the exiled head of the Stewart family, or to make any settlement whatever different from that which the English parliament had adopted, great confusion, if not a violent collision between the two kingdoms, could hardly fail to ensue. The Scottish parliament and people, however, were in no mood to go at once into the proposals of England. Jealous of their national rights and institutions, they viewed, on the contrary, with the utmost suspicion, any arrangement that seemed likely to augment the power of their southern neighbour. Instead of passing at once the English act of settlement, they passed an act of security, vesting the powers of the crown, in the event of its becoming vacant, in their own parliament; and directing them to choose a successor of the royal line, and of the protestant faith. And further, by this act of security, they decided that the person so chosen should not be capable of holding both crowns, save on the express condition of maintaining the complete independence of the Scottish nation, and the integrity of its institutions.

Danger of division between the two kingdoms on the vital question of the succession to the crown.

The Act of Security.

It was the critical position in which the relations of the two countries were thus placed, that mainly contributed to the bringing about of the incorporating union which soon after followed. Irritated as the English were at the attitude the Scottish parliament had assumed, they nevertheless, under the guidance of Queen Anne and her able minister Godolphin, recognized the wisdom of deferring to the claims of a high-spirited and resolute people. They assented to the Scottish act of security, and, on the footing of it, urged forward the scheme of a union. Nor was it after all without

The English Parliament assents to the Scottish Act of Security, and on the footing of it urges on the Union.

1688 to 1833. the utmost difficulty the consent of the Scottish parliament to the union was obtained. Their fears as to the consequences of such a measure were not unnatural. If once their own legislature were merged, not to say swamped and absorbed, in the far more numerous parliament of England, what security would remain for the integrity of their own national institutions, especially of their presbyterian church? If even a prelatic sovereign had often exerted so fatal an influence upon their religious liberties, how could they hope to be safe under a prelatic parliament? Actuated by such considerations as these, the Scottish commissioners, who were at length empowered to treat about a union, had their hands strictly tied up in regard to certain points, which, unless they should be first consented to as fundamental articles of the union, the commissioners were forbidden to treat at all. And when their report upon the treaty was laid before the Scottish parliament, the famous act was passed by which the articles stipulated for were made an essential condition of the union. The act so adopted runs in the following singularly explicit terms:—"Our sovereign lady and the estates of parliament considering that by the late act of parliament for a treaty with England for an union of both kingdoms, it is provided that the commissioners for that treaty should not treat of or concerning any alteration of the worship, discipline, and government of the church of this kingdom as now by law established, which treaty being reported to the parliament, and it being reasonable and necessary that the true protestant religion, as presently professed within this kingdom, with the worship, discipline, and government of this church, should be effectually and unalterably secured; therefore her majesty, with advice and consent of the said estates of parliament, doth hereby establish and confirm the said true protestant religion, and the worship, discipline, and government of this church to

The Scotch, jealous of the Union, allow their commissioners to treat about it only on certain conditions.

Act of the Scottish Parliament embodying the conditions of the Union.

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Worship, discipline, and government of the Presbyterian Church declared to be unalterable.

continue without any alteration to the people in this land in all succeeding generations; and more especially, her majesty, with advice and consent foresaid, ratifies, approves, and for ever confirms the fifth act of the first parliament of King William and Queen Mary, entitled 'act ratifying the confession of faith, and settling the presbyterian church government,' with the *whole other acts of parliament relating thereto*, in prosecution of the declaration of the estates of this kingdom containing the claim of right bearing date 11th April, 1689; and her majesty, with advice and consent foresaid, expressly provides and declares, that the foresaid true protestant religion, &c., all established by the foresaid acts of parliament, pursuant to the claim of right, shall remain and continue unalterable. And farther, her majesty, with advice foresaid, expressly declares and statutes that none of the subjects of this kingdom shall be liable to, but all and every one of them shall be free of any oath, test, or subscription within this kingdom, contrary to or inconsistent with the foresaid true protestant religion," &c. The act also provides that every sovereign of the united kingdom shall take an oath in harmony with this act, and thereby specially bind the crown to uphold in their integrity the constitution and liberties of the Scottish presbyterian church. It farther statutes and ordains "that this act of parliament, with the establishment therein contained, shall be held and observed in all time coming as a fundamental and essential condition of any treaty or union to be concluded betwixt the two kingdoms, without any alteration thereof or derogation thereto, in any sort, for ever." And finally, to complete this solemn transaction, in which the faith and honour of the two kingdoms were so fully pledged, all these conditions were, by an act of the English parliament, accepted and ratified. All and every the matters and things therein contained, and the act for securing the church of Scotland, it

1688 to 1833.

The sovereign bound by oath to uphold the constitution of the Scottish Church.

Conditions accepted and ratified by English Parliament.

1688 to 1833. is declared by this act of the parliament of England, shall "for ever be held and adjudged to be, and observed as fundamental and essential conditions of the said union, and shall in all times coming be taken to be, and are hereby declared to be essential and fundamental parts of the said articles of union," &c.

The treaty of Union secured, whatever the revolution settlement secured.

It needs nothing more than the simple statement of these facts, to show with what scrupulous care and anxiety the Scottish church and nation guarded their religious liberties and privileges at the period of the union. Whatever the revolution settlement had secured in these matters, the treaty of union secured. If the revolution abolished prelacy, the royal supremacy in matters spiritual, and the law of patronage,—so did the treaty of union. If the revolution settlement restored that presbyterian church government, and that intrinsic and exclusive jurisdiction in matters spiritual, specially inclusive of whatever belonged to the "examination and admission of ministers," for which Knox and Melville had struggled successfully, in 1567 and 1592, and which Henderson and the Glasgow assembly had so emphatically asserted in 1638,—so did the treaty of union. Whatever rights the church enjoyed under the one, were guaranteed by the other; and that in terms more explicit and with formalities more strict and solemn, than were almost ever employed upon any other occasion whatsoever.

The caution displayed by the Scotch in agreeing to the Union, amply justified by the events which followed.

The event sufficiently justified the caution and solicitude which the church, and her friends in the Scottish legislature, had displayed. It was only four years after the treaty of union had been completed, that the British parliament broke its pledge. The church of Scotland had often seen that acts of parliament are but "green withs," when statesmen and politicians find it convenient to break loose from their restraints: and she saw it again in 1711. Queen Anne, as is now well-known, was by this time intriguing to have the

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The intrigues of Queen Anne for the restoration of the Stewarts.

crown restored, at her own demise, to her popish brother, the Chevalier St. George. Childless herself, and half disposed to regard this calamity as a divine judgment for the course she had followed, in detaching herself from the party and the interest of her father, it seems not unlikely, that both family affection and a desire to repair what she had come to regard as an injury done to the head of her own family, inclined her to this new and perilous policy. She had now broken, moreover, with her female whig favourite, the Duchess of Marlborough. Mrs. Masham, the new confidant, fed the tory tastes of her royal mistress, and the government being now in the hands of Bolingbroke, measures were secretly but vigorously prosecuted for overturning the protestant settlement of the crown, and restoring the elder branch of the house of Stewart. It was to the cunning and disgraceful policy connected with that treasonable scheme, the church and the people of Scotland were indebted for the act of Queen Anne restoring patronage.* In reference to certain observations of Lord Brougham, putting a different gloss upon the history of that statute, a letter was addressed a few years ago to his lordship, full of truth and eloquence, in which the following conclusive statement occurs:—"The union had sunk the presbyterian representation of Scotland into a feeble and singularly inefficient minority. Toryism, in its worst form, acquired an overpowering ascendancy in the councils of the nation: Bolingbroke engaged in his deep-laid conspiracy against the protestant succession, and our popular liberties; and the law of patronage was again established. But why established? On this important point your lordship's great historical knowledge seems to have deserted you at once. There was a total lapse of memory;

1688 to 1833.

Origin of the act restoring patronage in 1711: letter to Lord Brougham.

* This act is spoken of by those who have occasion to refer to it,—sometimes as the act 1711, and sometimes as the act 1712. It was passed in the former year, and came into force in the latter.

1688 to 1833. and all that remained for your lordship in the peculiar circumstances of the case, was just to take the law's own word for the goodness of the law's own character. Was it not sufficiently fortunate in its historians? Smollett, ere he composed his English history, had abandoned his whig principles; Burnett was an episcopalian and a bishop; Sir Walter Scott a staunch tory, and full of the predilections and antipathies of his party. But all the three, my lord, were honest and honourable men. Smollett would have told your lordship of the peculiarly sinister spirit which animated the last parliament of Anne: of feelings adverse to the cause of freedom which prevailed among the people when it was chosen: and that the act which re-established patronage was but one of a series, all bearing on an object which the honest Scotch member (Sir David Dalrymple), who signified his willingness to acquiesce in one of these, on condition that it should be designated by its right name, —*an act for the encouragement of immorality and jacobitism in Scotland*,—seems to have discovered. The worthy bishop is still more decided. Instead of triumphing on the occasion, he solemnly assures us, that the thing was done 'merely to spite the presbyterians, who from the beginning had set it up as a principle, that parishes had, from warrants in scripture, a right to choose their ministers'—and 'who saw with great alarm, a motion *made on design* to weaken and undermine their establishment.' And the good Sir Walter, notwithstanding all his prejudices, is quite as candid. He tells us, that jacobitism prevailed in Scotland more among the upper, than the lower classes: and that the 'act which restored to patrons the right of presenting clergymen to vacant churches, was designed to render the churchmen more dependent on the aristocracy, and to separate them in some degree from their congregations, who could not be supposed to be equally attached to, or influenced by, a

Burnett, Smollett, Scott,—all concur in ascribing the Act 1711 to the Jacobites.

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minister who held his living by the gift of a great man, as by one who was chosen by their own free voice.' * * * The law which re-established patronage in Scotland, which has rendered christianity inefficient in well-nigh half her parishes,—which has separated some of her better clergymen from her church, and many of her better people from her clergymen*—the law through which Robertson ruled in the general assembly, and which Brougham has eulogized in the house of lords,—that identical law formed in its first enactment, no unessential portion of a deep and dangerous conspiracy against the liberties of our country."† 1688 to 1833.

The Act which has so injured the Church was part of a conspiracy against the liberties of the kingdom.

Additional authorities on this point.

It may not be uninteresting to notice here, in passing, one or two other authorities on the subject of the true origin and design of the patronage act of Queen Anne. Dr. Welsh, late professor of ecclesiastical history in the university of Edinburgh, cited in his evidence before the anti-patronage committee of the house of commons, a letter written by a leading English to an influential Scotch jacobite in 1708, and which has been preserved by Wodrow, in which the following passage occurs:—"The matter must first be sounded at a distance, and a just computation of our strength made,—such as restoring of patronage, and the granting of indulgence, with liberty to possess churches and benefices: and this will undoubtedly make way for an entire re-establishment of the ancient apostolic order of bishops, for our queen having right, as patron, to a great many churches, she will still prefer those of our persuasion to others: and the rest of laical patrons, partly through inclination and partly through interest to please her majesty, will follow her example."‡ The Lockhart papers testify still more

Jacobite letter preserved by Wodrow, and quoted by Dr. Welsh.

* This reference is to the secessions of last century.

† *Letter from one of the Scotch People to the Right Hon. Lord Brougham and Vaux, on the opinions expressed by his Lordship in the Auchterarder case.* Edinburgh, 1839.

‡ *Patronage Report*, p. 227.

unequivocally to the same thing. Lockhart was the agent in Scotland of the jacobite party. The presbyterians were the grand obstacle to the success of the conspiracy in which he was engaged. Unable to seduce them from their attachment to the protestant succession, it was his jesuitical policy to disgust them with the union; to inflame their jealousy of England; and, at the same time, to weaken the moral influence of their church: and accordingly, he says—"I pressed the toleration and patronage acts more earnestly, that I thought the presbyterian clergy would be from thence convinced, that the establishment of their kirk would in time be overturned, as it was obvious that the security thereof was not so thoroughly established by the union as they imagined."*

The Lockhart papers, and the evidence they supply as to the origin and design of the Patronage Act.

These views, indeed, are now so thoroughly established, that no one, with any pretensions to candour or historical accuracy, will venture to call them in question. The "heats and divisions," ascribed, in the preamble of the patronage act, to the law of William and Mary which it repealed, were but the dishonest plea for a most dishonest deed. The charge was as worthy of credit as another statement which occurs in the same veracious document, that the patrons "had not received payment or satisfaction for their right of patronage." It is well known that the patrons had been amply indemnified. "As to anything of their civil rights, the act 1690 did make the conditions of patrons better than before; not only by reserving unto them the right of disposal of vacant stipends for pious uses within the parish, but also giving unto them the heritable rights of the tithes, restricting the ministers who formerly had the said rights to stipends much below the value of the said tithes." And as these tithes, formerly belonging to the church, were not restored

Dishonesty of the statement contained in preamble of Queen Anne's Act.

Answer to the charge that Patrons had not been compensated by the Act 1690.

* *Lockhart Papers*, vol. i. pp. 417, 418.

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to her, the patrons, under the patronage act of Queen Anne, came "to enjoy both the purchase and the price."* 1688 to 1833.

If anything could have aggravated the outrage done by the passing of this act to the rights of the church, and to the solemn obligations of the treaty so recently concluded between the two kingdoms, it was the indecent speed with which it was hurried through parliament. Without any communication held with the church on the subject, the bill was introduced into the house of commons on the 20th March, and on the 8th of April it was already in the house of lords. In less than three weeks a measure affecting so deeply the religious interests and privileges of Scotland, and trenching so directly on the settlement which the treaty of union had only four years before declared to be unalterable, had been pushed forward through all those stages which the constitution of parliament has so wisely interposed as obstacles to hasty legislation; and within that brief period it had obtained, by a majority of 173 to 76, the sanction of the most important branch of the British legislature! Those were not times when news travelled upon the lightning's wing, and when men could be transported in less than a summer's day from Edinburgh to London. Science had not then learned so to annihilate either space or time. No sooner, however, did the intelligence of what was in progress in the south reach the northern metropolis, than the commission of assembly was convened; and commissioners were dispatched with all haste to deliver the remonstrances of the church. These gentlemen, the Rev. William Carstairs, Thomas Blackwell, and Robert Baillie, ministers of influence and consideration in the church, immediately on their arrival brought their case by petition before the house of lords; in which petition, after an able statement of the question, they

The wrong done to the Church by the Act 1712 aggravated by the haste with which it was passed.

Commissioners sent by the Church to London, to remonstrate against the passing of the Bill.

* *Representation of Commissioners of the Church against Queen Anne's Act.*

1688 to 1833. craved "from their lordships justice and mature deliberation, that a bill, as they humbly conceived, so nearly affecting the late treaty of union, in one of its most fundamental and essential articles, respecting the preservation of the rights and privileges which their church at that time was possessed of by law, for the security of which the parliament of Scotland was so much concerned as not to allow their commissioners to make it any part of their treaty, but reserved it as a thing unalterable by any judicature deriving its constitution from the said treaty, *shall not be approved by their lordships*, especially while the nature of the treaty itself shows it to be a reciprocal transaction betwixt the two nations."

The way in which their remonstrance was treated: bill hurried on with greater speed than before.

The house of lords paid to these reverend commissioners the empty compliment of allowing them to be heard by counsel against the bill, at the bar of the house. This took place on the 12th of April; and, as if in mockery of the deference they had affected to show to the representations of the church, their lordships, without giving to the arguments that had been laid before them the consideration even of an hour, had the bill, on the same day and at the same sitting, read a second time, committed, read a third time, and sent back, with certain amendments, to the house of commons. These amendments were agreed to without a division; and on the 22d of the following month, the queen gave the royal assent to a bill which, after deadening the church for a century, has at length proved the occasion of rending it asunder from the state. The commission of assembly had petitioned the queen against the measure, at the same time that they had sent their commissioners to London to oppose it. But all these remonstrances were thrown to the winds. Many, in all probability, of the English members of the legislature neither knew nor cared much about the matter. Scotch questions have seldom obtained much consideration, at any period, in the British parliament. In 1711, national

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Scotch questions not much regarded in the British Parliament.

prejudices in the south were peculiarly strong, and were no doubt easily enlisted by the government of the day in favour of any scheme that promised, as Burnett expresses it, "to spite the presbyterians" of Scotland. Hence the facility with which this most obnoxious and disgraceful measure was carried through. 1688 to 1833

Steps which the Church took with a view to get the obnoxious Act repealed.

It may not be improper, before proceeding to notice the character and to trace the history and influence of this act restoring patronage, to advert to some of the other steps which the church subsequently adopted in the vain endeavour to procure its repeal. As the death of queen Anne, and the consequent accession of George I., in 1715, overthrew the jacobite influence by which the court had been for some years so much and so mischievously guided, a favourable opportunity seemed to have arrived for assailing the patronage law, and getting justice done to the treaty of union and to the church. In the month of May of that year, the assembly accordingly transmitted to the king an earnest testimony against the yoke which the law of patronage had imposed—declaring that, while "it appears equitable in itself, and agreeable to the liberty of Christians and a free people, to have interest in the choice of those to whom they intrust the care of their souls, it is a hardship to be imposed upon in so tender a point, and that frequently by patrons who have no property nor residence in the parishes." This appeal proving unsuccessful, commissioners were again sent to London two years afterwards, who laid the representations of the church once more before parliament, and urged the repeal of the offensive law,—but equally in vain.

By various measures of a similar kind, taken from time to time, and to which more particular reference will afterwards be made, the church long continued to maintain its protest against the act of Queen Anne. But meanwhile, in

1688 to 1833.

order to preserve the continuousness of this narrative, and also to place the reader in a position to understand the change which began soon after this period to manifest itself in the whole spirit and administration of the church herself, it will be necessary to advert to some points not yet considered.

Change which began to appear in the spirit and administration of the Church.

And first, as to the act of Queen Anne restoring patronage. Its discreditable authorship and intention have been already exposed. But what were the powers which it actually conferred upon patrons? It is important to know the judgment that was entertained and acted on in regard to this question, by the church on the one hand, and by the courts of law on the other, while that statute was still fresh and new, and when its proper legal force and effect could hardly have been misunderstood. To the ordinary reader, the only change which it would seem to have introduced, was in the initial right of selecting the presentee. Under the statute 1690, that right belonged to the protestant heritors and elders of the parish. Queen Anne's act repealed the act 1690, "in so far as the same relates to the presentation of ministers by heritors and others therein mentioned;" and declares, that "from and after the 1st day of May, 1712, it shall and may be lawful for her majesty, her heirs and successors, and for every other person or persons who have right to any patronage or patronages, of any church or churches whatever, in that part of Great Britain called Scotland, * * * to present a qualified minister or ministers to any church or churches whereof they are patrons." But that nothing beyond this change, in the initial act of selecting the qualified minister to be presented, was designed—nothing more than taking the power to nominate from the heritors and elders, and transferring it to the patrons—the act itself seems very distinctly to declare. So far from professing to touch the previous stand-

The powers which the Act 1712 conferred on Patrons.

The terms of the Act on this point.

The terms of the act indicate no change, save in one single point, the substitution of the patron for the heritors and elders.

ing of any of the other parties concerned in the settlement of a minister, whether the presbyteries or the people, the act expressly sets forth, "that the presbytery of the respective bounds shall, and is hereby obliged, to receive and admit in the same manner such qualified minister or ministers as shall be presented by the respective patrons, as the persons or ministers presented *before the passing of this act, ought to have been admitted.*" 1688 to 1833.

Upon no view of the Act could it be held to have touched the jurisdiction of the presbytery.

Were it even granted that the expression "heritors and *others,*" which the act employs, was intended to describe the right of presentation which it repealed, as consisting of the whole complex right of heritors, elders, and people taken together, still this would not and could not touch the jurisdiction of the presbytery. This construction of the statute, of course, assumes that the people had a direct share under the act 1690, *in the right of presentation*, and that this right of theirs, co-ordinate with the right of the elders and heritors, was, by the act restoring patronage, taken away; and if this be conceded—and it is so, only for the sake of argument—it is the very utmost extent of the change which any one can pretend that Queen Anne's act introduced. Even after all this, it still remained statute law that the presbytery was the only competent tribunal "at whose judgment, and by whose determination the calling and entry of a particular minister is to be ordered and concluded." It cannot be pretended that either that important clause in the act 1690, or any of the other fundamental acts relating to the jurisdiction of the church in matters spiritual, which the revolution settlement restored and ratified, were in any way affected; and, as by these ancient statutes it was "according to the discipline of the kirk," that church judicatories were called on to proceed in the examination and admission of ministers, the church remained free, even under the act 1712, to give effect to her own conscientious judgment in

Neither in terms, nor by implication, did it repeal those statutes which ratified the spiritual jurisdiction of the church.

each particular case, and to see that her own fundamental principle of non-intrusion was carefully observed.

The Church did not understand that the act 1712 interfered with her spiritual authority.

Certain it is beyond all dispute that the church both understood that these powers continued in her possession, and acted on this understanding without hesitation, subsequently to 1712. For some years thereafter indeed, patrons did not venture to exercise their right of presentation at all. Such was their consciousness of the wrong Queen Anne's act had done to the church and people of Scotland, and such was the strength of public feeling against it, that patrons commonly contented themselves with using such private influence as their position gave them to procure a call in favour of the individual whom they might wish to nominate. In almost every instance there were at that period competing calls, and the person favoured by the patron was by no means always the successful candidate. At length, however, patrons took courage; the first example which occurs in the records of the general assembly, or its commission, of an attempt having been made to enforce the right of patronage in the face of the opposition of an apparent majority of the congregation, was in the year 1720. It was in the case of the parish of Spynie. The patron, Sir Harry Innes, appealed in that case to the general assembly against a sentence of the synod of Moray, because of "their refusal to settle Mr. William Mercer, probationer, as minister of that parish, upon his (Sir H. I.'s) presentation, and a call of some of the heritors and parishioners, which settlement is opposed by others of the said heritors and people." Sir Harry, it will be observed, does not attempt to stand on his own right of presentation alone, but pleads that his presentee had also a call from some at least of the parishioners. The assembly, not satisfied of the sufficiency of the call, and not recognizing a mere presentation as giving any title to a cure of souls, however

Patrons were for some time unwilling or afraid to act upon the law.

First case of an attempt to enforce the law: that of Spynie, 1720.

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The Assembly resists the attempt,—in so far as it was made in disregard of the people.

important an element it might be in the title to a benefice, remitted the matter to the commission, and meanwhile directed the presbytery to send Mr. Mercer "to preach in the foresaid parish of Spynie, and that they take further trial of the inclinations of the people of that parish towards him." It was reported by the presbytery to the commission, that this further trial of the people's inclination having been made, there were three out of nine heritors, three out of thirteen elders, and twelve out of sixty-nine heads of families in his favour. The patron and the adherents of Mr. Mercer appeared, by counsel, at the bar of the commission, and it is most material to notice that no attempt was made to show that a presentation could be legally enforced without a call, or in the face of the reclaiming congregation. Their line of argument was this, that undue methods had been used to prejudice the people against the presentee, and that some of those who opposed him were "disaffected to the present establishment of the church." Ultimately the appeal was abandoned, and Mr. Mercer was settled in another parish.

The argument of the patron and his supporters,—Consistent with the principle of non-intrusion.

First instance of an actual intrusion-settlement: that of Aberdeen, 1725.

The earliest instance to be met with of anything that had even the appearance of a disposition to settle a minister against the will of the people, took place in 1725. It was the case of a church in Aberdeen. The magistrates and council of the city were patrons. They claimed to appoint a minister absolutely, and without respect to the concurrence of the people. The synod of Aberdeen—still leavened with the spirit of the prelatic establishment, which was abolished in 1690, and whose adherents had always been numerous in that district of the country—had agreed to proceed to a settlement upon the presentation alone. Their sentence to this effect was reversed upon appeal by the general assembly, and instruction given to moderate in a new call, and to consult "the inclinations of the heads of

1688 to 1833. families." The result of this sentence was a new call to the presentee, signed by 139 heads of families, but opposed by 307. The commission of assembly, to whom power to dispose of the case had been given, sustained this call, and by so doing sanctioned an intrusion. Against this decision there were many dissentients, and amongst these the lord advocate, the learned and accomplished Forbes of Culloden, afterwards president of the court of session. When the record of the commission was laid before the assembly, that supreme court of the church expressly "disapproved of the commissioners' proceedings," as not having shown "a due regard to the inclinations of the people." But in consideration that the sentence of the commission was final in a case that had been remitted to it for decision, the assembly, by a plurality of voices, did not feel itself at liberty to set it aside.

The intrusion complained of by Forbes of Culloden, and disapproved by the Assembly.

Another case occurred a few years later, in 1729, in which the assembly took a more decided course still. It was in the case of Chalmers, principal of King's college, Aberdeen. The college, as patron, had presented him to the parish of Old Machar, and a limited number of the parishioners had also given him a call. There was, however, a competing call to a Mr. Howie, which appears to have been more numerously signed. The presbytery sustained Mr. Howie's call, although he had no presentation at all. This sentence, the synod on appeal reversed, and at the same time sustained the call to Principal Chalmers, and inducted him into the charge. These proceedings of the synod having been brought under the review of the assembly, the settlement of Principal Chalmers was annulled and the parish declared vacant.

Another Aberdeen intrusion in 1729. The settlement set aside by the Assembly.

Nothing could mark more unequivocally than such judgments as these, what was the view which the church then took of its own powers, and of the construction which it put

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Proceedings of the Church in these cases, show clearly what was her own view of her powers under the Act of Queen Anne.

upon the act of Queen Anne. There cannot be a question, 1688 to 1833 that the footing on which those judgments proceeded was this,—first, that the law restoring patronage had not set aside the principle, that "no pastor is to be intruded on a congregation contrary to their will;" and second, that the patron's right, at the very utmost, could affect only the benefice, but left the disposal of the cure of souls absolutely at the discretion of the church. As showing that this is no modern gloss put, to serve a purpose, upon the decisions in question, it may not be unimportant to refer to the sentiments of one of the most eminent lawyers of that century, when treating expressly of this subject.* Referring to the jurisdiction of the church in such matters, as ratified by the revolution settlement and the treaty of union, he says,—"Hence, in the settlement of churches, they (the church courts) retain, and must always retain, the power that we have seen vested in them (by the statutes 1567 and 1592) of rejecting a presentee, *even though qualified*, and of conferring the ministerial office on another, though without the right of bestowing the stipend." "In fact," he continues, "*no attempt has been made to wrest this power out of their hands.* For though, by the statute 10th of Queen Anne, chap. 12, the act 1690 was repealed, and the power therein given to heritors and elders taken away, and the right of presentation restored to patrons, yet that right (the right of presentation) was not enlarged by that statute. It was restored *precisely on the same footing that it had formerly stood.*" And things standing thus,—a right on the part of the patron to present, and a right on the part of the church to exercise its own discretion as to whether effect shall be given, *quoad spiritualia*, to the presentation in any particular case or no,—Mr. Crosbie puts the matter thus:

Crosbie, an eminent lawyer on the jurisdiction of the Church under that act.

* Andrew Crosbie—the Pleydell of Guy Mannering: *Thoughts on Patronage and Presentations*, 1769.

1688 to 1833. "It will often be a question of ecclesiastical expediency, whether a parish should remain vacant, or a particular presentee be settled? as, for example, while either a large secession, or a general non-attendance on public worship by the people, appear to be the immediate consequence of the settlement of the presentee. When another candidate appears on the field besides the presentee, who is regularly called by the people, and who is willing to accept the charge, the question of expediency seems to be at an end. Ecclesiastical rules point out what the determination ought to be."

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The Church, according to Mr. Crosbie, had an undoubted right to dispose of the cure of souls.

In point of fact, the church continued long after 1729 to act upon these principles. Not, indeed, with the steadfastness and uniformity of that earlier period: and the causes and consequences of her defections from that better, more scriptural, and more constitutional policy, will come immediately to be considered. But still the very fact that, from time to time, she did consult the "ecclesiastical expediency" of which Mr. Crosbie speaks, and enforce her own non-intrusion "rules," makes it manifest that, when she acted otherwise, it was not under the constraint of the civil law, or of any external force, but solely under the influence of a party within her own courts, who had more sympathy with patrons than with either the rights or the edification of the people. As illustrative of this occasional adherence to older and sounder views, reference may be made to the case of Kinnaird, in 1736. The crown being patron of this parish, issued a presentation in favour of a Mr. Blackie, to whom the most decided and unanimous opposition was offered by the people. Attempts were made in consequence to induce him to relinquish his presentation, and so to put an end to the contest. Complaining of this interference, the counsel for the crown protested "that it was illegal to tamper with his majesty's presentee, or any other per-

The Church continued to act on these views long after 1729.

Case of Kinnaird in 1736.

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son, to drop any office, civil or ecclesiastical, conferred by his majesty." Mr. Blackie, thus supported, refused to abandon his presentation; and the assembly, put in this way to the proof, decided promptly and firmly that "Mr. George Blackie, probationer, cannot be admitted minister of Kinnaird, but that the parish must be otherwise settled, *according to the laws that obtain in this church.*" Here was an exact exemplification of Mr. Crosbie's statement. There might be an expediency in acting so as to secure for the church's minister the civil benefice. But there was also a higher expediency in acting so as to secure a suitable and acceptable pastor for the flock. It could never be otherwise than the church's interest, as well as her duty, so to conduct her proceedings as that these two expediencies might be brought, if possible, to harmonize. But when any case arose, like that of Mr. Blackie and the parish of Kinnaird, in which the title to the benefice could be made good only at the expense of dispersing the flock, there could no longer be a question, on the ground either of scripture or of the church's own constitutional principles, which of the two expediencies should be preferred. What laws they were which "obtained in this church," and *according* to which the assembly decided that the parish of Kinnaird must be settled, was made sufficiently plain by the general declaratory act which that same assembly (1736) adopted, —setting forth, that "since the reformation," it had been a fundamental principle of this church, "that no minister be intruded into any parish contrary to the will of the congregation." In accordance with that fundamental principle, and in the exercise of her intrinsic and often-ratified jurisdiction in the "examination and admission of ministers," the church refused, in 1740, to settle the presentee to the parish of Currie; in 1752, the presentee to the parish of Biggar; in 1762, the presentees to Glendovan and St.

1683 to 1833

Decision of the General Assembly in the Kinnaird case.

Assembly's declaration in favour of non-intrusion in 1736.

 Ninians: and in all these instances she did so solely on the ground of the insufficiency of the call and the opposition of the people.

For fifty years after the passing of Queen Anne's Act, the Church frequently enforced her non-intrusion principle.

It thus appears, that for *half a century* after the passing of Queen Anne's act, the church from time to time pronounced judgments which it is impossible to account for, except on the view already given,—that the act restoring patronage had not, in her view of it, interposed any legal obstacle to the full exercise of her own discretion in enforcing her non-intrusion principle, and in deciding in what circumstances she would ordain any man to the office of the holy ministry, or induct him into a cure of souls.

Did the civil courts of that period acquiesce in the Church's view of her jurisdiction?

But the question arises, and it is a most important one,—were the civil courts in those days at one with the church in the interpretation which they put on the act of Queen Anne? Did they then assume, or attempt to enforce, the principle that this act deprived the courts of the church of all right to look at anything but the life, literature, and morals of the patron's presentee,—and bound them under the pains of civil law to ordain and induct him, unless they found him, in some one or other of these particulars, unqualified? The clear and unequivocal opinion of an eminent lawyer—Crosbie—writing about the middle of last century upon the subject, has been already noticed. Another authority still more influential, may be cited,—the famous Lord Kames,—a man whose philosophic mind, equally with his great legal knowledge, give peculiar weight and force to his judgment upon such a question. Treating expressly in his "law tracts" on the constitutional powers of the different courts in Scotland, his lordship lays it down as a thing well known and understood, that "ecclesiastical courts have an important jurisdiction in providing parishes with proper ministers or pastors; and they exercise their jurisdiction by naming, for the ministry of the vacant

Statement of Lord Kames on the jurisdiction of the Church, in the settlement of ministers.

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1688 to 1833.

Lord Kames' eulogy on the check provided by Act 1592.

It is not, however, on the mere dicta even of such legal authorities as Crosbie or Lord Kames, the question need be decided, as to what were held to be the relative position and powers of the civil and ecclesiastical courts under the act of Queen Anne. Decisions as well as dicta can be adduced

1688 to 1833. in abundance. Ample evidence has been already given as to the construction put upon that statute by the courts of the church; their practice shows that they held their jurisdiction, in the ordination and admission of ministers, to be still entire, exclusive, and ultimate. But what said the courts of law?

These views supported by *decisions* as well as *dicta*.

Notice has been already taken of the fact, that when the commission of assembly appointed a settlement at Aberdeen in 1726, without a due regard to the principle of non-intrusion, one of the leading dissentients who brought that proceeding under the review of the general assembly was the lord advocate of the day, the chief law-officer of the crown, and he an individual no less distinguished than the celebrated Duncan Forbes of Culloden. Some years later, in 1735, a presbytery having disregarded the presentation of the patron altogether, and settled another individual on the call of the congregation, the interposition of the civil court was sought, and their decision unequivocally intimates what they understood to be the full amount of their jurisdiction in the matter. They found* that "the *right to the stipend* is a civil right, and therefore that this court have power to cognosce and determine upon the legality of the admission of ministers, *ad hunc effectum*, whether the person admitted *shall have right to the stipend.*" Beyond this the courts of law, in those days, not only never went, but expressly refused to go, as can be shown by reference to a case in point. The presbytery of Dunse, about the middle of last century, thought fit to disregard the patron's presentee altogether, and were proceeding to settle another person upon the call of the congregation. The patron sought redress in the civil court, asking not simply that the temporalities of the cure should be with-

Important decision of the Court of Session in 1735.

* Moncrieff *v.* Maxton, 1735.

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held from the person whom the congregation had called, but that the court should interdict the presbytery from proceeding with the settlement of that person altogether. Both the judgment pronounced in the case, and the reasons on which it was founded, are reported by Lord Monboddo:— 1688 to 1833

The civil court refuses to interfere "with ordination or the policy of the Church" in the case of Dunse.

"With this conclusion," says his lordship, "the court would not meddle, because that was interfering with the power of ordination, or the internal policy of the church, with which the lords thought they had nothing to do." * Nay, so late as the year 1794, in the case of the parish of Unst, in Shetland, the court of session continued to take the same view of its jurisdiction, as limited strictly to the disposal of the benefice. In this case the presbytery, on the assumption that the six months allowed for the exercise of his right of presentation to the patron were expired, and that the right had consequently fallen to them, *jure devoluto*, nominated a Mr. Gray to the parish, and actually settled him in the charge. The patron, Lord Dundas, on application to the civil court, was found to have exercised his right within the time allowed by law; and the court being asked on this ground to order the presbytery to set aside the settlement of Mr. Gray, and to proceed to take trial of the patron's presentee, with a view to the settlement, declined to do so. They put the check spoken of by Lord Kames, in force,—that is, the provision of the act 1592, which entitled the patron to retain, for pious uses within the parish, the fruits of the benefice,—but they did nothing more. The settlement of Mr. Gray, to all spiritual effects, remained untouched and entire; and no attempt was made, by any civil compulsitor, to compel the presbytery to look at the patron's presentee at all.†

Decision in the case of Unst; the civil court limits its interference to the benefice.

* Hay *v.* Presbytery of Dunse, 1749. Brown's *Supplement*, V., p. 768.

† In deciding the famous Auchterarder case, in 1839, Lord Brougham

1688 to 1833.

The evidence is thus clear and conclusive, that according to the understanding both of the church herself and of the courts of law, the act of Queen Anne was held to have left the jurisdiction of the church over everything touching the title to ordination, and to the cure of souls, exactly as it was before. And it may with all safety be affirmed, that on no other understanding would the church have submitted to that act even for an hour. True, indeed, the church was no party to that act; whatever may have been the extent to which it went in restoring the civil right of patronage—she had done nothing but protest against it, as a most unrighteous interference with the integrity of that state of things which the treaty of union had declared to be unalterable for ever. But had the church imagined, or had the civil courts declared, that on the footing of Queen Anne's act, she was no longer entitled to enforce her principle of non-intrusion; nay more, that she was no longer at liberty to regulate and decide, upon her own exclusive responsibility, the entire question of the ordination and admission of ministers, in so far as spiritual effects were concerned, there cannot be a doubt in the mind of any one conversant with the subject, that the disruption of church and state would have taken place in 1712. Such a construction of the statute would have amounted to a practical re-establishment of the civil supremacy in causes ecclesiastical, and to a complete extinction of the right of a congregation to be protected from the intrusion of unacceptable ministers. In other words, it would have amounted to the total overthrow of those cardinal principles for which the church had contended since the reformation; and the refusal of which had

Conclusion to be drawn from these cases.

Had the Act 1712 been understood to suppress non-intrusion, and to invade the Church's spiritual freedom, the Disruption would have taken place in 1712.

falls into the strange and awkward blunder of first giving a version of the Unst case, in the very teeth of the facts, and then reasoning upon it in support of his own views. The Unst case, instead of supporting his views, flatly contradicts them.

CHAP. IV. never been coincident or compatible with anything but the destruction of the presbyterian establishment. 1688 to 1833

Origin of the Moderate party.

And here it becomes necessary to advert to the origin, character, and proceedings of a party which had been meanwhile growing up in the church, and which gradually acquired the ascendency in her courts, and for a long period directed her affairs. There cannot be any reasonable doubt that the rise of this party is to be traced to the admission, subsequently to the revolution settlement, into the restored presbyterian church, of those ministers of the abolished episcopal establishment who conformed to the new order of things. That measure savoured much more of the management of earthly politicians than of the wisdom of spiritual men. It was a favourite scheme with the king,—who, in a letter to the commission of assembly, dated from the Hague, 13th February, 1690–1, thus urgently presses it:—"We do assure you, that we will protect you and maintain the government in the church in that our kingdom by presbytery, without suffering any invasion to be made upon it, and therefore we do expect that you will avoid all occasion of division or resentment, and cordially unite with those who agree with you in the doctrine of the protestant religion, and own that confession of faith which the law has established as the standard of the communion of that church."* It was evidently regarded as an important stroke of policy to withdraw as many as possible of the quondam episcopal ministers from a position that might have fostered their known attachment to the exiled royal family, and their disaffection to King William's government. Incorporated with the presbyterian church, it was thought they would be in better company, and under safer

Letter of King William, recommending the assembly to receive the conforming curates.

This measure dictated by State policy.

* *A Few Letters concerning Church Government in Scotland in* 1690, from the Collection of the Earl of Leven and Melville. Edinburgh, 1840, p. 14.

1688 to 1833.

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influences. Their admission, accordingly, was strongly pressed upon the church,—and those who look, with a candid and impartial eye, at the fearful trials through which her ministers and people had come in the two preceding reigns, and at the many difficulties and embarrassments in which they and the country were still involved, will not wonder that the church gave way. The long and fiery persecutions through which the presbyterian church had passed, had both diminished the number of her ministers, and hindered, to a large extent, the training of young men for the ministerial office. The revolution found her, in consequence, unable to provide a ministry for all the parishes. The proposal of King William offered a speedy escape from this difficulty,—at the expense, however, of creating another. The prelatic establishment which had subsisted for nearly thirty years, though not very strong in adherents among the people, was possessed of a numerous clergy; and for the sake of the benefices, so many might and would have conformed, as to render it almost impossible to carry on the government of the church according to presbyterian principles. Writing to the Earl of Leven and Melville, at that time secretary of state, the Earl of Crawford, in reference to the difficulty now noticed, makes the following pertinent and energetic remarks:—"It appears strange that it should be pleaded by any that the government of the church be put equally in the hands of conform ministers and non-conform, when prelacy is abolished, the act for that effect touched, and the whole bulk of such disaffected to our civil interest unto a degree of praying for the late king. Can it be imagined that we shall have presbytery established, or that government continued, when the management is in the hands of men of different, if not opposite principles, who, being three to one for number, would certainly in a short time cast out of the church such

Considerations which induced the Church to yield this point.

The Earl of Crawford points out, in a letter to the Earl of Leven, the dangers likely to result from the measure.

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as were not altogether of a piece with them; and what should be the issue of such a procedure? ruin to the church, disappointment to the nation, which, without this settlement, will never be brought to an universal obedience nor kept at it, though there were a standing force of 20,000 constantly on foot. Let this be adverted to as an undoubted truth, which, if I were silent in the dust, may be minded as a warning to the king and all in rule under him." * The stout-hearted presbyterian earl has been "silent in the dust" long ago; but the reader will judge, as he proceeds with this history, whether the prophecy of 1690 has not been at length fulfilled. Even upon the supposition that pains should be taken to exclude those of the quondam episcopal clergy who were notoriously disaffected, this shrewd and sagacious nobleman foresaw that unless patronage were done away it would not fail in the long run to flood the church with men of a similar spirit. "There will be a necessity," he observes, in another letter to the secretary of state, "of taking off patronages, for though those that daily pray for the late king were laid aside, many in this nation would present to churches such as were not of our party." Again, recurring to the same subject a few days later—July, 1690, "I am sorry," he says, "that the business of patronages should be so much contended for by some few. If men design not simony, I see no advantage to any in point of interest, and it seems evidently to be a heavy yoke upon the church; and the matter of calls might be so adjusted as there needs no complaining upon that side, they being restricted to persons that are fixedly in parishes and under the inspection and regulation of presbyterians."

1688 to 1833

The Earl of Crawford's warning.

His lordship's opinion as to the necessity of abolishing patronage.

These enlightened views prevailed, and, as has been

* *A Few Letters*, &c., &c., Melville Collection, pp. 35, 36.

1688 to 1833. already noticed, patronage was abolished. From the first, the king had been made aware that this course would be necessary, if he meant to satisfy the church and people of Scotland, and accordingly "in the private instructions from King William to the Earl of Melville, commissioner to the parliament," the following significant sentence occurs:— "You are to pass an act for abolishing patronages, if the parliament shall desire the same." * Most probably, the fact that patronage had been set aside by the act 1690, and that the door had thus to all appearance been effectually shut against the introduction into the church, in all time coming, of men of the prelatic mould and spirit, may have induced the able men who then guided the general assembly, to acquiesce the more readily in the king's wishes, and to incorporate a large number of the conforming clergy with the presbyterian church. They considered, perhaps, that the evil would only be temporary,—that time would gradually remove the pernicious leaven of that secular and anti-presbyterian spirit, which the admission of these conformists could hardly fail to introduce. But they did not sufficiently estimate the deadening influence which the infusion of this unwholesome element might meanwhile exert on the whole body; and still less did they contemplate the re-opening, by Queen Anne's act in 1712, of the door for the continued increase of that element, which the revolution settlement had closed.

King William's private instructions to his commissioner regarding patronage.

The abolition of patronage did not save the Church from the ill effects of this carnal policy.

During the twenty years that elapsed between these two important periods, if the conformists were dying off, the old stock of tried presbyterians, the men who had stood the brunt of the Stewart persecutions, were diminishing in equal number. In these circumstances patronage coming at length, and of set design, to the aid of the party with whose

* *Few Letters*, &c., Melville Collection, p. 11.

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secular spirit and despotic principles it was in perfect harmony, it is not difficult to understand how they should, in the long run, have become the governing party in the church. The Earl of Crawford, who knew that party well, justly described them as men not only "of different, but of opposite principles," from those which characterized the constitution of the presbyterian church. And although their views and feelings were so far modified, in the course of years, as that they ceased to have any sympathy with the exiled house of Stewart, or to countenance any movement for unsettling that establishment, with which their own temporal interests had come to be identified; their essential secularity, and their decided distaste for those popular privileges which the constitution of the church recognized as given by Christ to his people, originated and perpetuated a corresponding course of policy. It was under that policy that the administration of the church gradually underwent a total change. And it is a fact not unworthy of notice, that this cause of defection from the old constitutional principles of presbyterian church government, was marked by a similar defection from evangelical truth. The zeal for the rights of patrons, and the degrading political subserviency which distinguished the ruling party in the church, towards the close of the former, and throughout the whole of the latter half of the 18th century, was not more unlike to the bold and independent bearing towards both patrons and kings, of the men of the first and of the second reformation—than the unsound theology and religious indifference of the one era, were unlike to the pure calvinistic doctrine, and to the earnest godliness of the older and better days of the church.

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Identity in many respects of the conformist-curates' party, with the moderate party.

Contrast between the moderate party and the men of the first and second reformation, —not in questions of discipline only, but of doctrine too.

Causes of the religious declension of the eighteenth century.

The decay of religion in a church is an event, it is true, whose causes it is sometimes difficult fully and accurately to trace. It is also frankly allowed, that it was not in Scotland alone the purity and the power of the gospel began,

1688 to 1833. about the period in question, to be obscured and impaired. Over all Europe, the eighteenth century witnessed a remarkable departure from evangelical truth, and a mournful decline of the evangelical spirit; and some have taken occasion from this circumstance, to deny that any connection existed between the party or the policy above alluded to and the low state of religion, of which they were at least the contemporaries. It is plainly, however, as unphilosophical as it is unscriptural, to assume that there can be an effect without a cause: nor will it do, in this case, to seek that cause in the mere sovereignty of God. True, indeed, in the exercise of that sovereignty, He hath mercy on whom He will have mercy, and hath compassion on whom He will have compassion. But the grace and truth which, according to His own good pleasure, He may thus have conferred, whether upon an individual or upon a church, are not withdrawn, save when He is provoked by unfaithfulness to withdraw them. Germany, France, Holland, England—all, as well as Scotland, may have simultaneously experienced the same blight upon their religious spirit and life. But this will not prove by any means that Queen Anne's act, coupled with the previous incorporation in the church of a body of men so well disposed as were the conforming "curates," to give effect to its secularizing spirit and tendencies, had nothing to do with Scotland's religious decline. Sins that are in themselves very different may, notwithstanding, merit and receive the same kind of judgment. Indeed, if it properly concerned this work to institute such an inquiry, it would probably not be difficult to show that, both in England and on the continent, the causes of the religious decline which so remarkably distinguished the eighteenth century, were, to a large extent, essentially the same. The world, and that mainly through a corrupting state influence, had everywhere infected the spirit and paralyzed the energies of the christian church.

The religious declension general throughout Europe.

Causes which promoted it in Scotland.

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The erastianism, no doubt, was far grosser and more unmitigated in other countries than was at all possible here; and hence, perhaps, both the earlier and the more fatal influence which it exerted in the English and continental churches. But the bitter waters which polluted and deadened the church of Scotland had their source in the same fountain head. The ex-prelatic curates and the law of patronage were both of them sore evils: and evils for which undoubtedly religion was indebted to the secular spirit and policy of an encroaching civil power. 1688 to 1833.

The ex-prelatic curates and the law of patronage,—the source of much evil to the Church.

The party which grew up in the manner now explained, came in process of time to be distinguished by the name of "Moderate;" a good name misapplied to designate a very pernicious thing. "A moderate divine," said Sir Richard Hill, who seems to have thoroughly comprehended the practical meaning of the term, "is one who has a very moderate share of zeal for God. Consequently, a moderate divine contents himself with a moderate degree of labour in his Master's vineyard. A moderate divine is too polite and rational to give any credit to the antiquated divinity of our articles, homilies and liturgy. And, therefore, he seldom quotes them except it be to show his contempt for them, or to torture their meaning; nevertheless, a moderate divine is ready enough to subscribe to them, if by so doing he can get an immoderate share of church preferment. A moderate divine is always very cool and calm in his pulpit; he never argues, except when he is preaching, against such fathers of Israel as the pious and lowly Mr. Hallward; and then a moderate divine loses all his moderation. And so, I daresay, do the moderates of the kirk of Scotland, when denouncing the principles and conduct of the evangelical and zealous servants of Christ, who seek to do away with abuses which are favourable to moderatism. A moderate divine is usually an advocate for card-parties, and for all assemblies except

Sir Richard Hill's definition of a Moderate

1688 to 1833. religious ones; but thinks no name too hard for those who assemble to spend an hour or two in prayer, and hearing God's word."*

It has been already stated, that for some years after patronage was restored, the settlement of ministers went on very much as it had done before. The might which the law gave, was so flagrantly opposed to right, that patrons themselves shrunk from exercising it. And although, as has been explained, there was already in the church courts a party in existence, not indisposed to enforce the obnoxious law to the uttermost, the current of contrary feeling was too deep and strong to encourage any attempt to resist it. At length, however, the obnoxious statute began to show symptoms of life—a life which wrought only division and death. The patron, so soon as he appeared in the field, found in the moderate party an active and faithful ally; an ally who supported him not only up to the full amount of his legal claims, but greatly beyond it. It seemed to be the very boast and glory of that party to fight the battles of patronage. In the warmth of his devotion to the cause, a youthful disciple of that school exclaimed, in the course of a debate in the general assembly upon the subject, that he gave God thanks for the law of patronage. "Moderator," said an old evangelical minister in reply, "this must needs be a singularly pious youth—he is thankful for very small mercies."

The Act of Queen Anne at length begins to work.

An Assembly anecdote.

It was not all at once, however, that the theory which the moderates finally adopted and acted on with regard to patronage was formed. Like most other gross departures from constitutional principles, it came in by degrees. "Both parties," observes Sir Henry Moncrieff, speaking of the first thirty or forty years subsequent to 1712, "at that time

The call,—and the contempt put upon it by the moderate party.

* Rev. E. Sydney's *Life of Sir Richard Hill.*

CHAP. IV. admitted the constitutional necessity of a call from a parish to become the foundation of a pastoral relation between a presentee and the parishioners."* It was the policy of the moderate party first to narrow that call as much as possible —now holding that the call of heritors and elders was sufficient, next maintaining that anything in the shape of a call, signed by whomsoever, and by how few soever, would serve the purpose, and in the end treating the call of the people as a thing of nought; a form which, because of the protest it so evidently embodied against their whole system of policy, they would fain have abolished altogether. 1688 to 1833.

The Secessions of the eighteenth century originated by the oppressive policy of moderatism.

To this patronage-loving and people-oppressing system of policy, are to be traced those secessions from the church which occurred in the course of the eighteenth century; and which, from small beginnings, had already separated at least one-fourth of the population of Scotland from the national establishment, before the more modern controversy, which originated in the same cause, had yet begun. It was in 1733 the first breach in the integrity of the national church was made. To prove that the quarrel of the seceders of that day had reference, not to the constitution but to the administration of the church, it is enough to refer to the fact that they themselves, in their protestation against the deeds which compelled them to withdraw, declared their secession to be "from the prevailing party in the church;" and that they made their appeal "unto the first free, faithful, and reforming general assembly of the church of Scotland." Had their descendants adhered to that appeal, and had they—recognizing the assembly of 1834, when the evangelical party acquired the ascendency, as the realization of the solemn protest made a century before—thrown their original testimony and themselves along with it into that

Appeal of the first seceders.

* *Life of Rev. Dr. Erskine*—Appendix, p. 457

1688 to 1833. truly "reforming" assembly, the conflict that followed would, in all human probability, have had a briefer duration and a more prosperous issue. But He who is wonderful in counsel and excellent in working had determined otherwise. His ways are not our ways, neither are His thoughts our thoughts: and although the course, so widely different, that has been actually pursued, may and must attach grave responsibility to the parties concerned, it will, doubtless, be ultimately overruled for a more perfect manifestation of the divine glory, and for a more signal triumph to His cause and kingdom on the earth. Were we to indulge in speculations as to what might have been, it were not perhaps unreasonable to affirm, that had the seceding brethren of 1733, Ebenezer Erskine and his three coadjutors, Wilson, Moncrieff, and Fisher, remained in the national church, and lent to their evangelical brethren the weight of their talents and character, reformation principles might have triumphed at a time and in circumstances that would have averted the more recent controversy and its consequences altogether. Why, it may be asked, did not these other evangelical brethren rather retire along with them? Their reasons were equally simple and strong. The constitution of the church was sound. As the seceders themselves allowed, the grievances complained of resulted from the mal-administration of the "prevailing party" in the church courts. In this state of affairs, both principle and policy appeared to the evangelical minority, to dictate and require that they should abide at their post, and endeavour to rescue an institution which they honoured and loved, from the hands of those by whom it was for the time misgoverned. The efforts which they made at the period now under consideration, seemed for a little as if they were not to be unavailing. The church was alarmed by the secession which had occurred. The assembly of 1734 manifested a decided disposition to

Reasons why the evangelical party did not leave the Church with their seceding brethren.

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Concessions made to induce the seceders to return.

retrace its steps. The act of 1730 refusing to allow protests to be entered on the record of the court—one of the fruits of moderate intolerance, and which had not a little contributed to drive on the secession—and along with it the act of 1732, for the settling of charges when, *jure devoluto*, the right to nominate might fall into the church's own hands —an act which gave double offence; first, by making no effectual arrangement for securing the non-intrusion principle; and second, by being adopted not only without, but against the provisions of the barrier act*—both of these obnoxious acts of the church were, by the assembly of 1734, annulled. 1688 to 1833.

The same assembly sent, moreover, a deputation to London, to urge the abolition of the law of patronage; that old root of bitterness which, now springing up again under the culture of moderatism, was already troubling so seriously the peace of the church. Another deputation followed in the succeeding year, and a bill to repeal the act of Queen Anne, drawn by the celebrated Forbes of Culloden, was actually brought into parliament; but meeting, unhappily, with little encouragement, it fell to the ground. A similar spirit continued to show itself in the assembly of 1736. A testimony against patronage was once more lifted up; and, at the same time, an act was passed "against the intrusion of ministers into vacant congregations," in which this solemn and important declaration and instruction are contained: "The general assembly considering that it is, and has been since the reformation, the principle of this church, that no minister shall be intruded into any church contrary to the will of the congregation, do therefore seriously recommend to all judi-

Renewed applications to parliament for the abolition of patronage.

Declaration of the non-intrusion principle by the Assembly, 1736.

* The Barrier act is so called from the obstruction which it offers to innovations upon the constitution of the church. It provides that no act embodying a new principle, or involving any departure from the existing constitution, shall become law unless it first receive the sanction of a majority of the presbyteries.

1688 to 1833

catories of this church, to have a due regard to this principle in planting vacant congregations, so as none be intruded into such parishes, as they regard the glory of God and edification of the body of Christ." These auspicious proceedings proved, however, but the last bright gleam gilding the western sky before the settling down of a long dark night. An old ecclesiastical historian said of the assembly of 1596, that it was the last of the "sincere assemblies" which preceded the erastian and intolerant domination of James VI. The assembly of 1736 was the last of the "sincere assemblies" of the eighteenth century. The tide of moderatism, checked and restrained by the struggle for reformation now described, immediately thereafter gathered such force as to sweep all before it, and the wrecks of that desolating flood are manifest and abundant at the present hour. There can be little doubt, that to this result the refusal of the seceding brethren to listen to the conciliatory proposals which, under evangelical influence, the assembly of 1734 had made, very considerably contributed. Again and again a door was opened for their return on honourable terms, but in vain. Their former friends were in consequence discouraged, and in the same measure their opponents, the moderates, were placed on a vantage ground for pursuing their oppressive policy, under the plausible pretext of vindicating the authority of the church. In 1740 the deposition of the seceding ministers, now eight in number, completed their separation, and put an end to all hope of their return.

This the last of the "sincere Assemblies."

The refusal of the seceders to return, discouraged their friends in the Church and strengthened moderatism.

From this time forward, moderatism was dominant in the counsels of the general assembly, and the means by which it "practised and prospered," were worthy of itself. To effect its favourite object, of crushing the rights of congregations, and yet so as to avoid the risk of perilous collisions with the conscientious scruples of those ministers who might not feel themselves at liberty to take part in any

The ascendency of moderatism and its "riding committees."

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proceedings which involved a violation of the non-intrusion principle, the assembly had recourse to the famous scheme of "riding committees." When presbyteries declined to take the responsibility of lording it over the heritage of God by thrusting upon a congregation an obnoxious presentee, the assembly took the matter into their own hands, delegating the work of intrusion to a committee of their number, by whom it was promptly and unscrupulously executed, often by the help of military force. The sword opened a broad way to the benefice, but it was not likely to open a way either to the hearts of the people or to the blessing of God. Disaffection and irreligion, in these circumstances, grew apace. 1688 to 1833.

Moderatism becomes at length strong enough to dispense with the riding committees.

At length, however, moderatism found itself strong enough to dispense with the riding committees. The ruling party in the assembly began, in the year 1752, to carry their intrusion policy with a still higher hand. They would no longer tolerate the hesitation either of presbyteries or of individual ministers. They insisted not only that the deed should be done, by which a forced settlement was to be effected, but that it should be done by the very persons who most scrupled to do it. This gratuitous tyranny was signally exemplified that year in the case of the parish of Inverkeithing. The person, a Mr. Andrew Richardson, presented to that parish, proving unacceptable to the people, and the presbytery demurring to go on with his settlement, they were, upon appeal to the assembly, commanded to proceed. As three members constitute the legal quorum of a presbytery, and as there were at least as many in the presbytery in question who had no difficulty about the assembly's sentence, it might have been effected without requiring the direct personal co-operation of those who could not concur in it. But, as if glorying in oppression, the assembly raised the quorum in the Inverkeithing case to

The case of Inverkeithing.

The Assembly raises the quorum of the presbytery from three to six.

1688 to 1833. six, determined to leave no avenue of escape to scrupulous consciences, and another breach in the national church was the consequence. When the day appointed for the settlement arrived, three members of the presbytery only were present, and the settlement, by a necessity which the assembly's own tyranny had created, was again delayed. The presbytery was summoned to the bar of the assembly, when six of their number gave in a representation in which they modestly but firmly stated their defence. They reminded the house, that "ever since the act restoring patronages, in the end of Queen Anne's reign, there has been a vehement opposition to all settlements by presentations where there was but small concurrence, which settlements have already produced a train of the most unhappy consequences, greatly affecting the interest of religion." They referred to the fact that, so recently as 1736, the assembly had passed an act against the intrusion of ministers, which called upon all presbyteries, as "they regarded the glory of God and the edification of the body of Christ," to see that no minister be intruded. They declared their solemn conviction, that "by having an active hand in carrying Mr. Richardson's settlement into execution," they should, as matters then stood, "have been the unhappy instrument, to speak the language of holy writ, of *scattering the flock of Christ;*" and, finally, they protested that if on this account they should be "judged guilty of such criminal disobedience as to deserve their censures," they would suffer solely "for adhering to what they apprehended to be the will of their great Lord and Master."

Remonstrance of the six brethren who shrunk from intruding a minister against the will of the people.

Unmoved by this touching remonstrance, the assembly resolved to make an example. As if they had been a military commission sitting upon a case of mutiny, in which scruples of conscience and appeals to the authority of Christ were a mere impertinence, they resolved to select a victim

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In the spirit of a military commission, the moderate Assembly selects a victim; and the lot of deposition falls on Mr. Gillespie.

by vote,—and the lot of deposition fell to the Rev. Thomas Gillespie, of Carnock. From that single seed sprung the second secession,—since known by the name of the Relief Synod,—a body which numbered about a hundred ministers before moderatism had lost the reins of church government in 1834. This triumph marked the commencement of the Robertsonian era of moderatism,—so called from the distinguished historian of that name. That celebrated individual,—illustrious in literature, but not in religion, nor in the church of Christ,—made his first speech on ecclesiastical affairs in the assembly of 1751. On that occasion, in his attempt to carry coercive measures against a non-intrusion minister, he was left, as his biographers tell us, "in an inconsiderable minority." The fact, that in the following year the tide ran so heartily along with him, has been confidently ascribed to the force of his reasoning, and to the power of his eloquence. "Such was the impression made by the argument contained in the protest (which he had drawn up against the sentence of the preceding year), and more fully illustrated in his speech, that the supreme court reversed the sentence of the commission, and deposed one of the ministers of the presbytery of Dunfermline (Mr. Gillespie), for disobeying the orders of his superiors." It is well-known that the whole passage in Dugald Stewart's life of Robertson, in which these words occur, was furnished by his friend and successor in the leadership of the moderate party, Principal Hill, after being revised by Dr. Carlyle, Dr. Blair, and several other prominent members of the party. But, however, their partiality may have led them to ascribe the sudden and "complete triumph of the principles for which Dr. Robertson and his friends had struggled," to the commanding influence of the logician and the orator, it seems not without reason that one who was himself a bitter opponent of the reforming party and principles in 1843, has

Commencement of the Robertsonian era, 1752.

Robertson's success in the Assembly ascribed, by his biographers, to his famous protest of the preceding year.

1688 to 1833. suggested an explanation of the fact, considerably less creditable to all concerned. A scheme for the augmentation of ministers' stipends which the assembly had been pressing with great urgency upon parliament, had been rejected the year before. The day preceding that on which the measure was thrown out, by a vote of the house of commons, there had been circulated extensively among the members, a paper, the authorship of which is unknown, but the effect of which in defeating the augmentation scheme, is understood to have been considerable. In that paper reference is made to the patronage act of Queen Anne. "It appears," said this sinister document, "that the presbyteries of Scotland pay very little or no regard to this law; and that, in direct disobedience to it, they frequently refuse to enter the patron's presentee, and for the most part moderate the call of another person, named to them by the christian people, as they are called, the heritors and elders."* It will be observed, that even in this piece of interested and prejudiced special pleading, it is not the assertion of the non-intrusion principle which is complained of, but the disregarding of the patron's presentee altogether. It is easy enough to understand how such a statement should have told on Englishmen, who had no notion, under their own erastian and despotic ecclesiastical system, of either the rights of the church or the rights of the people. Nor is it more difficult to conceive how the rejection, on such grounds as the above document embodied, of their augmentation scheme, should have fanned the flame of *moderate* zeal in the general assembly, for the cause of patronage. Certain it is, that devotion to that cause was the leading characteristic of the Robertsonian period. Among "the circumstances which chiefly distinguished his system

Morren's explanation of the sudden triumph of Robertsonian principles.

Paper circulated among the members of Parliament, complaining that the rights of patrons were disregarded by the Scottish Church.

Scheme for the augmentation of ministers' stipends defeated in consequence.

* Morren's *Annals*, vol. i., p. 197.

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of policy," say his biographers, "were *first* a steady and uniform support of the law of patronage."* 1688 to 1833.

Robertson assists at the forced settlement of his brother-in-law.

Robertson was already an *amateur*—though not altogether a disinterested one—in the cause of intrusion, before he had yet become the champion of patronage in the courts of the church. The year before, he had assisted as a volunteer along with the riding committee at the forced settlement of his brother-in-law, the Rev. Mr. Syme of Alloa. This gentleman, carried over the necks of a reclaiming congregation, and that by the help of a band of soldiers, into the pastoral charge of his parish, was the grandfather of Lord Brougham. How singular that the echoes of a deed which occurred in an insignificant Scotch town in 1751, should have been heard reverberating nearly ninety years afterwards in the British house of lords. Intrusion had now become the order of the day, and its fruits may be judged of by the tenor of the following overture, which was brought by the evangelical minority before the assembly of 1768:—"As the progress of the schism in this church is so very remarkable, and seems to be on the growing hand, as it is credibly affirmed that there are now one hundred and twenty meeting-houses erected, to which more than a hundred thousand persons resort who were formerly of our communion, but have now separated themselves from the church of Scotland, and that the effects of this schism begin to appear and are likely to take root in the greatest and most populous towns: it is humbly overtured that the venerable assembly would take under their mature consideration this alarming evil, which hath so threatening an aspect to this church, to the interests of religion, and to the peace of the country,"† &c. But what then? if the flock in so many

Lord Brougham, the grandson of that intruded minister.

Overture presented to the Assembly of 1768, showing the rapid growth of the secession.

* Stewart's *Life of Robertson*, p. 25—Paris edition of Works.
† Morren's *Annals*, vol. ii., pp. 306, 307.

1688 to 1833 cases was already gone, the fleece remained; and, to secure the benefices, moderatism must needs be content to part with the people. The preaching and the policy of that school of divines were alike distasteful to the congregations of Scotland. It was not possible that they and non-intrusion could keep house together: the one could remain only by turning the other out of doors. It has been already shown that no pressure on the side of the courts of law necessitated this disregard of the popular voice. When the assembly did in some rare instance defer to it and to the church's undoubted law upon the subject, the civil arm was never interposed to hinder such a course of proceeding. When its aid was called for by some offended patron whose presentee had been passed by altogether, even then the withholding of the benefice was the utmost stretch to which the civil court could be induced to go. The despotic rigour, therefore, with which patronage was now enforced, was as wanton and gratuitous as it was offensive and unwise. Moderatism, under the skilful management of Dr. Robertson, carried all before it, and the admirers of his ecclesiastical policy claim for it the distinction of having stilled the agitations that were wont to disquiet the church. *Faciunt solitudinem, pacem appellant.* They made a desert and they called it peace. "The bustle in assemblies," says Sir Henry Moncrieff, speaking of the state to which matters had been brought by this vaunted but fatal policy, "is in a great measure over, as a disputed settlement no longer creates any serious interest or division in the church courts; but the silent increase of seceding meetings has gradually weakened and contracted the influence of the establishment on the general population."*

Preaching and policy of moderatism alike distasteful to the Scottish people.

Character and effects of the Robertsonian rule.

Sir Henry Moncrieff's testimony to the injuries inflicted on the Church by forced settlements.

It was not without reason that this dreary period was

* *Life of Dr. Erskine*—Appendix, p. 469.

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This, "the dark age" of the Scottish Church.

designated by Dr. Chalmers the "dark age" of the church of Scotland. The administration of ecclesiastical affairs was conducted upon a system that was both unconstitutional and disingenuous. The forms prescribed by the constitution of the church, to be observed in the settlement of ministers, were carefully and studiously preserved, while their whole spirit and substance were habitually set at nought. It still continued to be upon the *call* of the congregation the pastoral tie was professedly formed. The "paper called a call," as moderatism came at length insultingly to term it, was still at every ordination regularly produced; and the document ran in the usual terms, inviting, in the name of the parishioners, the patron's presentee to take the oversight of their spiritual interests, and engaging to render unto him all "due obedience in the Lord." Furthermore, this solemn instrument was still put, on the day of ordination, into the presentee's hands, and the question addressed to him by the presbytery as heretofore—whether "he closed with this call," and engaged, in the strength of the Lord, faithfully to do the work of the ministry among that people. This profane mockery was not the less scrupulously gone through that the people, instead of calling the presentee, were at that very moment vehemently protesting against his settlement, as a gross outrage upon their highest interests, and a deliberate violation of their religious liberties. Not one jot or tittle of the "rue and mint, and anise and cummin," was neglected—however little account was made meanwhile of the weightier matters of the law—judgment and the love of God. Accordingly, when certain members of the party, whose moral sense was perhaps shocked somewhat at such indecencies, and who, at all events, were disposed to rid themselves of the trouble and inconvenience which the call occasioned, had shown in their presbyteries a disposition boldly to set the call aside, a motion was made and carried

1688 to 1833.

The call still used with all the customary solemnities, though reduced to a mockery.

1688 to 1833.

in the assembly of 1782, the very era of triumphant moderatism, that "the moderation of a call in the settlement of ministers is agreeable to the immemorial and constitutional practice of this church, and ought to be continued." What could be a stronger or more conclusive evidence of the standing which the constitution of the church of Scotland recognized, as the inherent right of her congregations? Even the ruthless hand of moderatism, in the day of its greatest strength, durst not venture to tear that element which was just the principle of non-intrusion, out of the framework of the constitution. And there accordingly it remained—long derided and practically disowned; but destined to rise again out of the dust, and to resume, in more auspicious times, its rightful place and power.

Resolution of the Assembly 1782 refusing to set aside the call.

The dead form was destined to live again.

It has been already noticed, that "a steady and uniform support of the law of patronage" is certified, and with abundant reason, by the friends of Dr. Robertson, to have been the first point in his ecclesiastical management. Will it be believed that, in constant company with a system in which everything was sacrificed to this idol of moderatism, —the peace of families—the integrity of the church—the interests of religion,—the general assembly continued, under his leadership, annually to "empower and direct" its commission "to make application to the king and parliament for redress of the grievance of patronage, in case a favourable opportunity for so doing shall occur during the subsistence of this commission!" The fact that this was done serves, indeed, as Sir Henry Moncrieff remarks, to "demonstrate how deeply rooted the original ideas of the church had been:" but what shall be said or thought of those who annually perpetrated this piece of shameless hypocrisy. Had their yearly instruction to the commission been followed up with even so much as one single effort to get rid of the

The moderate Assembly continues to record its annual protest against patronage!

CHAP. IV. law of patronage, charity might have clung to the idea that perchance their rigorous enforcement of that law was distressing to themselves, and resulted only from what they believed to be the cruel necessity of their position. But in the extent to which they enforced it, there is the clearest evidence that they were under the pressure of no legal necessity whatever. It was the consonance of the system of patronage with their own secular taste, and the substantial rewards, in the shape of church-livings, which it showered upon their party, that commended it to their favour, and called forth in its behalf that almost fanatical zeal with which they supported it. It was an affair of *quid pro quo*. They toiled hard for the patrons, and even the most distinguished leaders of moderatism were not ashamed to clamour importunately for the due acknowledgment. "It is of the very greatest importance," wrote Dr. Blair, "that these offices (referring to certain ecclesiastical preferments in the gift of the crown) should be bestowed upon moderate clergymen. * * Dr. Robertson, I know, has writ to Sir Alex. Gilmour, and Mr. Dempster, representing that unless the ministry choose to bestow these marks of their countenance upon such clergymen as are friends to law and government, he for his part will entirely withdraw from all sort of church business and management." The loyalty of moderatism, loud and flaming as it was, could not stand the sight of favours going past its own door. Like the mercenaries of the preceding century, it was ready to mutiny if there was any stoppage of the pay. And though it talked of law and government, as concerned in the enforcement of patronage, the same document lets out the secret that the strength of this rigid patronage lay, not in the *law*, but in the *party* who made use of it. "If they," the letter continues—that is, any belonging to the evangelical party, "should be the

1688 to 1833.

Secret of the moderate party's zeal in the cause of patronage.

Dr. Blair's letters on the subject.

1688 to 1833. men, faction will be understood to be supported from above, and *it is vain to think of supporting the cause of patronage any longer in the country.*"*

No wonder that under the system and the influences now described, religion in the national church should have fallen into a deep decline. Not merely vital godliness, but even the form of sound words was disappearing from very many of its pulpits. So extensively had heretical doctrine and a sceptical spirit spread among the clergy, that the purpose was deliberately entertained to get rid of the confession of faith as the grand hinderance to the free-thinking that was abroad. Dr. Robertson's sudden, unexpected, and for a long time unexplained retirement from the management of church affairs, while yet in the vigour of life, is now known to have been chiefly attributable to that cause. He was not prepared for so desperate a plunge as a large body of his friends and supporters were urging on. It was in 1781 he resigned the leadership of the party, but the strength of his conviction that the perilous proposal which scared him from his position would still be pressed, may be judged of from the fact, that he privately counselled Sir Henry Moncrieff to study the question, as one which he and the evangelical party would soon have to face. Moderatism, grown wanton and reckless in the consciousness of its now complete ascendency, was in danger of becoming "overmuch wicked." The retirement of their sagacious and accomplished leader could not fail to check the rashness, if it did not rebuke the unprincipled wickedness, of those zealots of the party whose nefarious scheme had filled him with so much alarm,—and the projected attack on the confession of faith fell to the ground.

Heresy and scepticism become prevalent among the clergy.

Threatened attack on the Confession of Faith, and Robertson's alarm.

Darkness and deadness, however, still continued to spread

* *Memorials of Mr. Oswald of Dunnikier.*—Rev. H. Moncrieff's *Letter to Lord Melbourne*, pp. 107, 108.

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among the moderate clergy,—and through them, to a large extent, among the people also of the national church. So long before as the year 1744, the well-known Dr. John Erskine, whose praise is in all the churches of Christ, had occasion, in his correspondence with Warburton, the learned author of the Divine Legation of Moses, to characterize the spirit and tendencies of moderate theology and preaching, in such terms as to elicit the following reply :—"What you say of the state of learning and religion among you is very curious, but very melancholy. * * * The paganized christian divines you speak of, are what formerly passed among us under the name of the latitudinarians,—of late Bangorian divines. But Socinus lies at the root." The progress of this school, under the system already described, secured for the church, from David Hume, the sinister and significant compliment of being more favourable to deism than any other church of that day ! During the Robertsonian period, the declension which had taken place in the morals and religion of the people, and especially in Edinburgh, was so marked as to attract the attention even of those who were not much alive to interests of that kind. The theatre-loving and stage-playing propensities of some of the most prominent of the moderate clergy, were notorious enough to have called forth the stinging satire of the following lines :

1688 to 1833.

Warburton's letter to Erskine on the theology of moderatism.

Hume's sinister compliment.

Habits of the moderate clergy, and general declension of religion and morals.

> Hid close in the green-room, some clergymen lay;
> Good actors themselves,—their whole lives a play.

And this downward course of things continued with unabating rapidity long after Dr. Robertson had ceased to sway the counsels of the church. His successor in the leadership of the moderate party was Principal Hill of St. Andrews, a man to whose sound and accurate theology an illustrious foreign writer of the present day* has paid a just acknow-

Principal Hill the successor of Robertson as the moderate leader.

* Merle D'Aubigné—*Recollections*, &c.

1688 to 1833. ledgment. In this respect he was immeasurably ahead of the great body of his party; although, after all, the difference between them was rather speculative than practical. His more orthodox beliefs were too little under the influence of an evangelic spirit to come forth in any tangible form against prevailing errors. If he did not create the current, he at least floated unresistingly along with it. He had nothing in him of that sterner stuff, whether of constitutional firmness and honesty, or of deep religious conviction, of which reformers are made. In a letter to his mother, written from London at an early period of his career, he has himself sketched the features which distinguished him through life. "I am sure," said he, "I am pliable enough: more than I think sometimes quite right. I can laugh or be grave, talk nonsense, or politics, or philosophy, just as it suits my company, and can submit to any mortification to suit those with whom I converse. I cannot flatter: but I can listen with attention, and seemed pleased with everything that anybody says. By arts like these, which have, perhaps, a little meanness in them, but are so convenient that one does not choose to lay them aside, I have had the good luck to be a favourite in most places."* These arts and accomplishments did not lose their reward. They secured for him an accumulation of posts and places, lucrative and honorary, which, in a plain presbyterian church, are not often or easily gathered up by one pair of hands. A minister of St. Andrews—a professor of theology in one of its colleges—the principal of its university—a king's chaplain—a dean of the chapel royal—and dean of the order of the thistle;—behold the successor of Robertson. The mantle of the moderate leadership had many good things in its skirts. The patrons were not unmindful of

Hill's character as sketched by himself.

* Dr. Cook's *Life of Hill*, p. 25.

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their friends. But how religion fared under Dr. Hill's management of ecclesiastical affairs, may be understood by a single but most pregnant illustration. 1688 to 1833.

The Assembly, 1796, and the debate on missions.

The assembly of 1796, after Dr. Hill had been the recognized head of the moderate party for fifteen years, was the scene of a very remarkable discussion. Shortly before that period, missionary societies had begun to appear. In the spring of that very year the Edinburgh missionary society had been formed; its president was the distinguished divine and truly godly minister already mentioned, Dr. John Erskine of Greyfriars' church in that city, then in his seventy-fifth year, but with a heart as warm and a head as active as ever in the cause of his great Lord and Master. It might well have been thought that at such a time, when the horrors of the French revolution were giving to the world so awful an example of the consequences of irreligion and infidelity, any proposition for the more extensive diffusion of the gospel might count on at least a respectful hearing from a christian church. Apparently in this belief, two of the synods of the church of Scotland had sent up overtures* on the subject of missions to the general assembly; one of these was in general terms, asking only that the assembly should consider in what way they could best promote the missionary cause: the other was more definite, suggesting that a general collection in aid of missions should be recommended throughout the church by the general assembly. Here then was a fair opportunity of testing the spirit of the assembly, and especially of the two parties in it whose principles and proceedings the foregoing narrative has traced. If there be any fact more prominent than another in the history of the church of Scotland from the reformation down-

Two synods send up overtures in favour of missions.

The religious spirit of the Assembly tested by this debate.

* The technical name for the propositions which any of the inferior courts of the church may address to the superior courts, for the purpose of opening up some question that appears to demand attention.

1688 to 1833. wards, it is this, that erastianism and a low state of religion have always gone together; while, on the other hand, the evangelical spirit has ever been found in company with a zeal for the liberties of the church and the rights of the christian people. A connection so uniform cannot be accidental, and it deserves the attentive consideration of those who make light of such conflicts as this work describes. Never, perhaps, on any occasion did the cold secularity of patronage-loving and people-oppressing moderatism come out more palpably or painfully than in the memorable debate on missions, in the assembly of 1796.* The leading speaker on the moderate side, the Rev. Mr. Hamilton of Gladsmuir, boldly affirmed that, "to spread abroad the knowledge of the gospel among barbarous and heathen nations seemed to him highly preposterous, in as far as it anticipates, nay, reverses the order of nature." "Men," he continued, "must be polished and refined in their manners before they can be properly enlightened in religious truths. Philosophy and learning must, in the nature of things, take the precedence. Indeed, it should seem hardly less absurd to make revelation precede civilization in the order of time, than to pretend to unfold to a child the *Principia* of Newton, ere he is made at all acquainted with the letters of the alphabet. These ideas seem to me alike founded in error, and therefore I must consider them both as equally romantic and visionary." Christianity, according to Mr. Hamilton's views, seemed to be designed and needed only to give a finishing touch in the way of completing the progressive improvement of the human race. To secular civilization it belongs, according to his theory, to rear up the fallen pillar of humanity, and all that remains for the gospel is to decorate its summit

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Religious character of moderatism illustrated.

Extraordinary speech of the Rev. Mr. Hamilton of Gladsmuir.

* See a striking picture of this debate in a well-known pamphlet, entitled *The Two Parties in the Church of Scotland*, by Hugh Miller. J. Johnstone, Edinburgh, 1841.

CHAP. IV. with an ornamental capital. As to the gospel being necessary to the salvation of the heathen, he unhesitatingly denied it; and treated, as a "groundless anxiety," the concern which speakers on the evangelical side of the discussion had expressed in regard to their condition. Nay, not contented with maintaining that the heathen could do very well without the gospel altogether, he became eloquent in his admiration of their innocence, and in his alarm at the very thought of their being contaminated by intercourse with Europeans. "The untutored Indian or Otaheitian," he exclaimed, "whose daily toils produce his daily food, and who, when that is procured, basks with his family in the sun, with little reflection or care, is not without his simple virtues. His breast can beat high with the feelings of friendship, his heart can burn with the ardour of patriotism; and although his mind have not comprehension enough to grasp the idea of general philanthropy, yet the houseless stranger finds a sure shelter under his hospitable though humble roof, and experiences that, though ignorant of the general principle, his soul is attuned to the feelings on which its practice must generally depend. But go—engraft on his simple manners, the customs, refinements, and, may I not add, some of the vices of civilized society, and the *influence of that religion which you give as a compensation for the disadvantages attending such communications, will not refine his morals nor ensure his happiness.*" It was in rising up to condemn these extraordinary sentiments, the aged and venerable Dr. Erskine, extending his arms towards the moderator, exclaimed—"Rax (reach) me that bible." With the sacred volume in his hand, he reminded the orator of moderatism and his admiring friends, that an inspired apostle accounted himself a debtor,—not merely to the polished Greeks, but to the unlettered barbarians,—not merely to the wise, but to the unwise, to preach

1688 to 1833.

The innocence and happiness of savage life!

Danger of sending missionaries to the heathen.

Dr. Erskine's indignant rebuke.

1688 to 1833. to them that gospel which is the power of God unto salvation, to every one that believeth. The lapse of half a century has not sufficed to efface from the minds of survivors who witnessed this graphic incident, the impression which was produced by the solemn and indignant energy of the aged servant of Christ, in pronouncing this withering rebuke. So far, however, were his party from being ashamed of so melancholy an exhibition as this opponent of missions had made, that not long after, they singled him out for the highest honour they could confer, by putting him into the chair of the assembly. His views, indeed, were those which prevailed in the discussion. The leader of the dominant party, Dr. Hill, went so far as even to declare the missionary societies, with their united action and their common fund, as "highly dangerous in their tendency to the good order of society at large." Improving on this hint, thrown out to catch the political alarmists of the day, Mr. Boyle, the ruling elder from Irvine,*—a young gentleman who, by a somewhat singular coincidence, lived to take part, in his old age, on the bench of the court of session, in pronouncing those legal decisions which produced the disruption,—gave utterance to this astounding harangue: "I rise, moderator, impressed with a sense of the alarming and dangerous tendency of the measures proposed in the overtures on your table—overtures which I cannot too strongly, which this house cannot too strongly oppose, and which, I trust, all the loyal and well-affected members will be unanimous in opposing." * * Speaking of the missionary societies, he exclaimed, "observe, Sir, they are affiliated, they have a common object, they correspond with each other, they look for assistance from foreign countries, in the very language of many of the seditious societies. Above all, it is to be

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Principal Hill condemns the missionary societies.

Mr. Boyle's speech: vehement attack upon the missionary societies.

* Afterwards lord justice general of Scotland,—the head of the court of session.

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marked, they have a *common fund* (!) Where is the security that the money of this fund will not, as the reverend principal said, be used for very different purposes from the professed ones. If any man says that the societies have not this connection and tendency, he says the thing that is not. It now, therefore, becomes us as much as possible to discourage numerous societies, for whatever purposes: for, be the object what it may, they are all equally bad. And as for these missionary societies, I do aver, that since it is to be apprehended that their funds may be in time, nay, certainly, will be *turned against the constitution* (!) so it is the bounden duty of this house to give the overtures recommending them our most serious disapprobation, and our immediate, most decisive opposition." (!!!) It seems almost incredible, at the present day, that such a rhapsody could have excited ought else than a smile. It was treated, however, in the moderate assembly of 1796, as a piece of most serious and weighty argumentation. That many, indeed, must needs have laughed in their sleeve at the notion of "treasons, stratagems, and spoils," being hatched in missionary societies, and headed by such men as Dr. Erskine, can scarcely be well doubted. But, like the skins of the wild beasts in which the primitive martyrs were put to death, the brand of sedition served to hide a little the true nature of the cause upon which they were putting so bad a name, and enabled moderatism, with a somewhat better grace, to turn missions out of doors.

1688 to 1833.

The missionary societies might become treasonable societies!

Moderatism gave missions a bad name, and turned them out of doors.

In all ages it has been a common device to represent earnestly religious men as "troublers" of the public peace. There are times, however, when even worldly-minded politicians become sensible of both the folly and the falseness of this cry. In the season of actual peril, when society is breaking loose from the restraints of authority and law, the conviction often forces itself upon them that the only true

In perilous times, even worldly statesmen find out the worth of religious men.

1688 to 1833.

conservatives are the men that fear God. It was a season of that kind which, towards the close of last century, had arrived. Statesmen had seen nothing to dislike or dread in infidelity, so long as its teachers were the philosophers and literati of the day, and its disciples were the gay and the great in society, the loose-living, pleasure-loving votaries of fashion. The case was altogether different when that same infidelity came to be embodied in the creed of political demagogues, and in the insurrectionary movements of a depraved and reckless populace. The Parisian clubs, and the guillotine, and the reign of terror, began to teach men in power that Hume and Voltaire were not the best auxiliaries of the state,—and that clergymen who courted such society were not, even for the state's purpose, the most useful instructors of the people. Under the influence of such feelings, the officers of the crown in Scotland began to look somewhat more favourably upon the evangelical party in the church. Knowing well that the ministers of that party had much more to say with the people than their moderate brethren, the authorities considered it expedient and necessary now to treat the evangelical party with a little more deference than they had been accustomed for many years to enjoy. Under the influence of similar considerations, and from a growing impression among the more influential classes of society, that religion was the only effectual safeguard of social order, the holders of church patronage found it expedient not altogether to despise the claims of evangelical candidates for the ministry. The tide, in a word, began to turn. Slowly at first, and almost insensibly, but yet steadily and increasingly, the evangelical party in the church gained strength. And while the causes already noticed contributed largely to this result, it is impossible to overlook the share in producing it which undoubtedly belonged to a few distinguished

Infidelity, armed with the guillotine, had become an object of alarm.

The tide, in high places begins to turn in favour of the evangelical party.

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men. During even the palmiest days of moderate ascendency, when to be evangelical was to be accounted and treated almost literally "as the filth of the earth, and as the offscouring of all things," the name of Dr. Erskine was still a rallying point for the evangelical cause. His learning so varied, his piety so deep, his preaching so impressive, his labours so incessant, his life so unblemished, his whole character so instinct with honour and integrity—made it impossible even for dominant moderatism to treat with mere contempt the cause with which Dr. Erskine was identified. Among those who succeeded him, as leaders on the same side, three men stand conspicuous—Moncrieff, Thomson, and Chalmers—each in himself a host. Under their auspices, the party which long and systematic discouragement on the part of patrons and men in power had reduced fifty years ago to a small minority, waxed, like the house of David, "stronger and stronger;" while moderatism was every year becoming "weaker and weaker," like the house of Saul. 1688 to 1833.

Character of Dr. Erskine and his great influence.

The chiefs under whom the evangelical party gradually grew strong.

The Rev. Sir Henry Moncrieff: his character and his influence in the Church.

The Rev. Sir Henry Moncrieff, the friend and biographer of Erskine, was not unworthy to succeed even such a man in representing and defending the ancient constitutional principles, and the old scriptural theology of the church of Scotland. Combining, as Sir Henry did, a clear and vigorous understanding, uncommon sagacity, and a resolute will, with that manly bearing and that inflexible integrity, which even at first sight command respect, and which never fail to ensure lasting confidence, few men were ever better fitted than he to uphold a good cause in difficult and depressing times. Weakened and dispirited as they were, the evangelical minority under a less masculine leadership might have been in some danger of being crushed altogether. The contest had, in fact, become all but hopeless and useless in the general assembly. For this

1688 to 1833. reason chiefly, no doubt, it was that Sir Henry Moncrieff directed so much of his attention and his influence towards those who had the disposal of church patronage in their hands. His high character and great prudence led to his being often consulted; and enabled him not unfrequently to bring about, by private advice, the appointment of pious and useful ministers. In this way he largely promoted the real revival and reformation of the church, at a time when it was impossible, through the more public medium of the church courts, to effect anything at all. Some expressions which, in the course of this period, he employed, in the appendix to his Life of Dr. Erskine, were afterwards greedily seized upon, as if they proved him to have been unfriendly, or at least indifferent, to some of the great principles which the recent controversy involved. This attempt to deprive a good cause of the benefit of his venerable name, neither required nor deserved any serious reply. It has, however, been most calmly and conclusively exposed, by his respected grandson, the Rev. Sir Henry Welwood Moncrieff, a minister of the Free church of Scotland.* "It was in early life," said one who knew him long and well, "that he began to take an active part in the government of our national church. The principles of ecclesiastical polity which he adopted as soon as he entered on his public career, he adopted from full and firm conviction; and he maintained and cherished and avowed them to the very last. They were the very same principles for which our forefathers had contended so nobly, which they at length succeeded in establishing, and which they bequeathed, as a sacred and blood-bought legacy, to their descendants. But though that circumstance gave them a deep and solemn interest in his regard, he was attached to them on more

Attempts which have been made to misrepresent his views.

Account of Sir Henry's views of Church policy, given by the Rev Dr. Andrew Thomson.

* *Vide* his *Letter to Lord Melbourne*, &c. Edinburgh, J. Johnstone, 1841.

CHAP. IV. rational and enlightened grounds. He viewed them as founded on the word of God—as essential to the rights and liberties of the christian people—as identified with the prosperity of genuine religion, and with the real welfare and efficiency of the establishment."* 1688 to 1833.

The Rev. Dr. Andrew Thomson.

He who drew this picture and pronounced this eulogy, had been already, for several years previous to Sir Henry's death, the acknowledged leader of the reforming party in the church. Dr. Andrew Thomson not merely inherited the principles of Knox, and Melville, and Henderson—he was himself another of these giant men. Fearless as Knox, profoundly skilled, like Melville, in ecclesiastical affairs, and gifted, like Henderson, with that ready and commanding eloquence so indispensable to the leader of a popular assembly; he belonged to the same high order of minds as that illustrious triumvirate. He was, moreover, instinct with their spirit; in him the very genius of these great reformers of the church lived again; their intense love of liberty, their unsparing and uncompromising enmity against all corruptions and abuses, their inextinguishable hatred of tyranny and arbitrary power; and, above all, their zeal in promoting the religious culture and intellectual improvement of the people, and their resolute and unflinching maintenance of the spiritual independence of the church and the rights of the christian people, formed the grand distinguishing characteristics of Thomson's character and life. And most remarkable was the progress made during the brief but busy years of his public career, in bringing back the church towards the old paths, so well defined in her constitution and so brightly traced in her history. It had been the fashion, in the days of dominant moderatism, to identify evangelical preaching with intellectual imbecility.

Compared with Knox, Melville, and Henderson.

Points in which his character and cast of mind resembled theirs.

* Sermon preached by the Rev. Dr. Andrew Thomson on the occasion of Sir Henry's death.

1688 to 1833. To be reputed an *esprit fort*, it was essential to be at least on friendly terms with scepticism, and to be ashamed of the gospel of Christ. The protest against this mingled impiety and insolence of an irreligious age, which, even in the worst times, had been offered in the person of such men as Erskine and Moncrieff, received from Thomson an immense accession of force. Occupying the pulpit of St. George's, in the very centre of the most influential classes of the northern metropolis, the prodigious energy of his character speedily gathered around him, and brought under the impulse of his ministry, many of the most vigorous and cultivated minds in the city. While his preaching was thus rapidly regaining for evangelism a firmer footing in those ranks of society from which it had been long almost excluded, his advocacy of reformation principles—on the platform, through the press, and in the courts of the church—was telling not less powerfully on men's views of ecclesiastical affairs. Young and generous minds among the candidates for the ministry caught fire from this master in Israel, and took from him many of the best lessons and impulses of their after life. His sun went down at noon, while yet shining in its meridian strength; and although, at the sudden and stunning announcement of his death, men felt as if the church's firmament had become dark, time has proved how many burning and shining lights his own—as a great instrument in God's hand—had kindled and left behind, to guide her affairs when his own light had disappeared. "His was the olden theology of Scotland; a thoroughly devoted son of our church, he was through life the firm, the unflinching advocate of its articles, and its formularies, and its rights, and the whole polity of its constitution and discipline. His creed he derived by inheritance from the fathers of the Scottish reformation; not, however, as based on human authority, but as based and

According to the sceptical spirit of the preceding century, to be evangelical was to be imbecile.

Influence which the preaching of Thomson exerted in putting down this insolent reproach.

Dr. Thomson's sudden death.

His funeral sermon by Dr. Chalmers.

CHAP. IV. upholden on the authority of scripture alone. * * * The whole system originated in deepest piety: and has resulted in the formation of the most moral and intelligent peasantry in Europe. Yet, in spite of this palpable evidence in its favour, it fell into discredit. Along with the elegant literature of our sister country, did the meagre arminianism of her church make invasion among our clergy; and we certainly receded, for a time, from the good old way of our forefathers. This was the middle age of the church of Scotland—an age of cold and feeble rationality, when evangelism was derided as fanatical, and its very phraseology was deemed an ignoble and vulgar thing in the upper classes of society. A morality without godliness—a certain prettiness of sentiment, served up in tasteful and well-turned periods of composition—the ethics of philosophy or of the academic chair, rather than the ethics of the gospel —the speculations of natural theology, and, perhaps, an ingenious and scholar-like exposition of the credentials, rather than a faithful exposition of the contents, of the new testament;—these, for a time, dispossessed the topics of other days, and occupied that room in our pulpits which had formerly been given to the demonstrations of sin and of the Saviour. You know there has been a reflux. The tide of sentiment has been turned: and there is none who has given it greater momentum, or borne it more triumphantly along, than did the lamented pastor of this congregation. His talents and his advocacy have thrown a lustre around the cause. The prejudices of thousands have given way before the might and the mastery of his resistless demonstrations. The evangelical system has in consequence risen prodigiously, of late years, in the estimation of general society,—connected to a great degree, we doubt not, under the blessing of God, with his powerful appeals to scripture, and his no less powerful appeals to the con-

1688 to 1833.

The preaching of the eighteenth century: evangelism then derided as fanatical.

The tide in favour of evangelism now turned, and the influence Thomson had exerted in producing this change.

1688 to 1833.

sciences of men." "If, indeed," exclaimed the preacher, in the same funeral discourse, "our next war is to be a war of principles, then before the battle is begun the noblest of our champions has fallen. Yet," added he, "we dare not give up to despondency a cause which has truth for its basis, and the guarantee of heaven's omnipotence for its complete and everlasting triumph. In this reeling of the nations,—this gradual loosening of all spirits from the ancient holds of habit and of principle,—still we cannot fear that the church, the one and indestructible church, though tossed and cradled in the storm, will not be rivetted more securely upon its basis. 'We are distressed, but not in despair: troubled, yet not forsaken: cast down, yet not destroyed: help, Lord, when the godly man ceaseth, and the righteous fail from the children of men.'" *

The loss the Church had sustained b Thomson's death.

Could the illustrious man who paid this just and noble tribute to the memory of his departed friend, have foreseen the agitating and eventful controversy that was destined so soon to break out in the church of Scotland, the dispensation of divine providence by which Thomson had been so suddenly struck down and removed, would doubtless have seemed darker and more distressing still. Judging after the manner of men, who would not have been ready to say, that his was the fittest, perhaps the only, hand for the helm, when the vessel was about to be caught by so perilous a storm. But God's ways are not our ways, neither are His thoughts our thoughts. One had laboured, and others were to enter into his labours. One had mustered and disciplined the forces, but it was reserved for others to marshal them in the field, and direct them in the shock of

This loss would have seemed to the preacher still greater had he known what a struggle was awaiting the Church.

God had provided other soldiers for the coming conflict.

* *Sermon preached in St. George's Church, Edinburgh, on Sabbath, February 20th*, 1831, *on occasion of the death of the Rev. Dr. Andrew Thomson.*—Chalmers' *Works*, Collins' edition, vol. xi., pp. 205–207, 216–217.

battle. And these others, He whose name is Jehovah-jireh had already provided: and the chief of them all was the very man, who, with characteristic humility—as if himself were not worthy to be thought of, in the view of the great crisis he described—was pronouncing his sorrowing lamentation over the heavy loss which God's cause had sustained. Even in the way of preparing the church for the tremendous struggle that was awaiting her, no single individual, not even Andrew Thomson, had done more than THOMAS CHALMERS. 1688 to 1833.

The chiefest of these was the preacher himself—THOMAS CHALMERS.

His removal from Kilmeny to Glasgow the beginning of a new era.

His removal from his quiet rural charge, in the parish of Kilmeny, in Fifeshire, to the Tron church of Glasgow, in 1815, marked the commencement of a new era, not in his own personal history alone, but in the history of the revival of evangelical religion. Whatever influences existed, and were in operation before, on the side of that sacred cause, were immediately and immensely increased. There was in his case no transition period of slowly and gradually gathering fame. His sun shot up at once into the very centre of the firmament. From the comparative obscurity of his former position, he burst upon society, in his new sphere, as the greatest preacher of modern times. That massive intellect, which from boyhood had been measuring its strength and multiplying its resources, by grappling with almost the entire circle of the sciences; that large heart, which God had touched and filled with the love of Christ, and which already had been burning with deep desires for the spiritual regeneration of his fellow-men; that native genius, whose lofty inspirations had been giving to his earlier friends unequivocal promise of what it was yet destined to achieve,—had all at length obtained a fitting field to call them forth and to exercise their highest powers. Not only was the pulpit, in his hands, found to be altogether abreast of science and philosophy, but those

The time had come, and the man.

Chalmers as a preacher.

1688 proud names, which the enemies of the gospel had been accustomed in the preceding century to challenge as pecu-
1833. liarly their own, were now seen serving the uses of the most earnest piety, and ministering, as humble and yet graceful handmaids, at her shrine. It was not, however, as a preacher alone—unprecedented and unrivalled as his power in that department was—that he gave so mighty an impulse to evangelical truth. Never was piety more intensely practical than in this illustrious man. To reform society was the object of his life. The gospel could do this, and nothing else could do it. And how to bring that gospel to the homes and the hearts of the neglected masses that were multiplying with such fearful rapidity on the "ground floor" of the social edifice,—this was his grand problem, which he spent his days in working out with incredible energy, and in labouring with matchless eloquence and power to get other men to learn. He set little value on any question of ecclesiastical policy, excepting in so far as it bore upon what was to him the all-important object, of making the church more efficient as an instrument for promoting the moral and spiritual well-being of the people. Possessed as he was, and as hardly any other man since Knox, or Luther, or Paul, was ever possessed before, with this one grand idea,—he was sometimes, and especially in the earlier stages of his public career, impatient enough of those whom he was wont to designate the "jurists" of the church: bent as they were on putting right the machinery, when he could think of nothing but working the machine. Time, however, and experience made him more and more sensible how closely the one process is connected with the other. It was mainly, indeed, by the obstructions which the state of the ecclesiastical machinery presented to the carrying out of his own plans of practical usefulness, that his attention was gradually turned to its defects, and to the

To reform society was the object of his life.

Chalmers belonged to the *economists* rather than the *jurists* of the Church.

CHAP. IV.

1688 to 1833.

A vigorous opponent of whatever hindered the efficient working of the Church.

absolute necessity of having them remedied. Among those abuses which moderatism had encouraged, and was still resolute in defending, was the frequent union of the pastoral and professorial offices,—a system which commonly turned either the pulpit or the chair into a mere sinecure, and very commonly degraded both. In the vigorous efforts which the evangelical party in the church made to put an end to this evil, Chalmers took a prominent and powerful share. And the fact is not undeserving of notice in a work like this, that it was in the course of a keen and elaborate discussion upon this subject, which took place in the general assembly of 1826, those views of the constitution of the established church which were afterwards adopted and acted on by the courts of law, in the disruption controversy, were for the first time formally and deliberately announced. Hope, the lord president of the court of session, was a member of that assembly, and in supporting the party and the principles of moderatism, in the debate on the union of offices, he took this ground,—that even if it were expedient to abolish pluralities, the church had not, by the law which regulated her relation to the state, the power to do so. This doctrine was new, not only to the assembly, but to that learned person himself. "When the case," said his lordship, "was before the assembly several years ago, I did then, Sir, as several members may recollect, express great doubts how far it was competent for the assembly to pass the qualified act then in question. But the acts of parliament relating to the powers of the church, not being of every day's practice, I was not sufficiently master of them to venture to form or to give a positive opinion upon the subject." These sentences are somewhat remarkable. They distinctly show that the light of that theory of the church's constitution, as a national establishment, which brought about the disruption, had then but recently broken in upon

The debate on the "union of offices" in the Assembly of 1826.

The Erastian theory of the Church's constitution first broached in the speech of Lord President Hope.

A *new* theory even to the Lord President.

the lord president's mind, and had only now, for the first time, guided him with any confidence to those startling conclusions which he thereupon proceeded to expound. His argument from the statutes was simply a rehearsal of what formed, twelve years afterwards, his judicial opinion in the Auchterarder case. "The presbyterian religion, and the presbyterian form of government," said his lordship, in the debate of 1826, "are in this country the creatures of statute. Both derive their *existence* and their *doctrines*, as well as their powers, from parliament; and it is impossible that they could derive them from any other source!" In these extraordinary views, the entire argument on one side of the disruption-controversy will be found to lie. No wonder that the speaker who followed the president in the debate, the Rev. Dr. Stevenson M'Gill, professor of divinity in the university of Glasgow, should have protested, with indignant astonishment, against this virtual re-assertion of the civil supremacy in matters spiritual. "With all the respect which I truly feel for the distinguished member who has last addressed us, nothing, I must acknowledge," said Dr. M'Gill, "has more surprised me than the doctrine, *which I never expected to hear maintained in this assembly*, that the church of Scotland has not the power to declare what shall be the qualifications of its own ministers. The powers of this church, he (president Hope) maintained, were founded only upon acts of parliament: these fixed the qualifications of ministers, and we had no power but to administer them; and on parliament depended the exercise of that power which from parliament we received! This, Sir, is indeed a sweeping doctrine; but, happily for us, it is as untrue as it is dangerous—our right to determine the qualifications of our ministers flows not from acts of parliament." * * * "The reformation of this country was accomplished by great and enlightened

His lordship's views.

The President answered by Rev. Dr. M'Gill of Glasgow.

Indignantly repudiates the President's doctrine.

CHAP. IV. men instructing all classes in the truths of the gospel, and in opposition to the power and prejudices of its rulers. It emanated not, as in England, from the will and the power of an arbitrary monarch fixing its doctrines, its government, and its worship, and appointing its canons and its statutes, by his own authority. The religion of Scotland was previously embraced by the people on the authority of the *Word of God*, BEFORE it was sanctioned by parliament; and thus previously fixed, it was adopted by parliament as the religion of the nation, received on authority superior to man. Now, of this system, acknowledged and submitted to by parliament, the right of the church to judge of the qualifications of its ministers, formed an essential part; and with that wisdom which distinguished the first period of the reformation, parliament, so far from interfering with a business of which they could not be the most competent judges, ratified that right, and gave to the church all the advantage which could arise from its *temporal* authority." The learned and venerable professor, having briefly reviewed the statutes ratifying the church's spiritual freedom, in corroboration of what he had thus affirmed, concluded with this solemn declaration: "I hesitate not to maintain, that the constitution and privileges of the church of Scotland are fundamental principles, which cannot be destroyed but by the breaking up of the general frame of our government, or by an act of despotic and lawless oppression." As the debate proceeded, the sentiments so promptly and impressively delivered by Dr. M'Gill, on the cardinal question of jurisdiction, were still more fully and emphatically stated by another learned and distinguished member of the house, the late Lord Moncrieff. "With regard to that doctrine," said he, alluding to the civil-supremacy views of the president, "I must be permitted to say, with all manner of respect, that I hold it to be in sub-

1688 to 1833.

Describes the rise of the presbyterian church of Scotland,—and the footing on which it was established by the civil power.

The independence of the Church in matters spiritual, a fundamental principle, guaranteed by the constitution of the kingdom.

1688 to 1833.

stance the same thing as to say that you have *no ecclesiastical jurisdiction whatever*, as a church by law established. Sir, the basis of that argument is laid in this proposition, that the established church of Scotland has no existence and no power but what it holds by virtue of acts of parliament. Nobody certainly can doubt," he continued, "that our establishment—like every other, in so far as it is an establishment, sanctioned and maintained by the civil government of the state—depends for its existence on the provisions of the system of government derived from the will of the people who have chosen it; but it is quite another thing to say, that all the powers of this church, established under such a government, are derived solely from the express enactments of acts of parliament in which particular things are committed to the church, or that the measure of these powers is to be restrained within the limits of such express civil enactments. This would be, in other words, to say, that the church courts may indeed have certain powers as a part of the civil government; but that, as the judicatories of the ecclesiastical establishment, properly considered, and independent of any special statutes, they have no power at all." And having thus distinguished between two things which the president seemed to confound, and having thereby exposed the fallacy which ran through his lordship's entire argument, Mr. Moncrieff concluded a succinct and able summary of the statutes bearing upon this great question by referring to the confession of faith, which he reminded the learned judge was part and parcel of the revolution settlement and of the law of the land. Having quoted from that solemnly ratified standard of the church, its 31st article, that it belongs to the synods and councils of the church to set down rules and directions for the public worship of God, "and the government of His church; to receive complaints

Mr. (now Lord) Moncrieff follow Dr. M'Gill, in condemning the view of the President.

The 31st article of the Confession of Faith, and the argument Mr. Moncrieff founds upon it.

CHAP. IV. in cases of mal-administration, and *authoritatively to determine the same:* which decrees and determinations, if consonant to the *word of God*, are to be received with reverence and submission; not only for their agreement with the word, but ALSO FOR THE POWER *whereby they are made* as being an ORDINANCE OF GOD, appointed thereunto in His word." Having recited these explicit statements of the church's nationally-ratified confession, "There," exclaimed the speaker, with all that characteristic energy and force which made his sentences strike like a sledge hammer, when he was crushing an opponent beneath the weight of a resistless argument, "*there* is the basis of the powers of our ecclesiastical establishment; it rests not upon the force of acts of parliament, but on the nature of the establishment itself—on the great principles on which our reformers put it—acknowledging no other Head but the Lord Jesus Christ, and no other warrant but the bible itself, that book by which we, not less than the first reformers, have sworn to be guided in all our deliberations, and to which all our decisions should be conformed." 1688 to 1833.

The true source of the Church's spiritual powers.

Notice has been already taken of the fact, acknowledged by himself, that it was only in preparing for the debate of 1826, the lord president reached the conclusions which he then announced. Strange that a theory of our ecclesiastical constitution, involving consequences so momentous, should have lain undiscovered and unapplied for nearly a century and a half. If it was true in 1826, it must have been equally true ever since the revolution settlement in 1690; and yet, not only had it not been found out either on the bench or in the general assembly, during all the anxious controversies of the eighteenth century, but when now at length formally propounded in the manner above described, even the moderate party themselves gave it no ostensible countenance. When Dr. M'Gill and Mr. Moncrieff treated

Singular that the Lord President's theory should have lain undiscovered a century and a half.

1688 to 1833. it as hardly either requiring or deserving a serious answer, not one solitary individual ventured to utter a syllable in its support. Not only so, but the motion which was submitted by Dr. Cook of St. Andrews—a prominent member of the moderate party, and afterwards its acknowledged leader in the assembly—proceeded on a complete denial of the lord president's doctrine, by assuming the perfect competency of the church to legislate upon the question. And yet that little cloud, "no bigger than a man's hand," which first showed itself above the horizon in 1826, was the same which, twenty years later, had darkened the whole firmament of the church,—until at length it burst forth in the storm which rent the establishment in pieces. It is not unimportant to observe, that the purpose for which the power of the church was thus, for the first time, deliberately challenged, was to stereotype an abuse, and to arrest the progress of practical reform. In this respect, those who have since studied in the lord president's school will be found to have maintained an undeviating consistency.

No one give any countenance to the President's view—and Dr. Cook's motion assumes them to be unfounded.

But to return to Dr. Chalmers. It has been already remarked, that his natural position was among the economists rather than among the jurists of the church. His mind was too much engrossed with her practical business, to have much liking or leisure for discussing the theory of her constitution. It was only when some abuse was found, lying, as a mighty hinderance across his path, and arresting him in his incessant efforts to do good to society and to the souls of men, that he appeared in the arena of ecclesiastical debate. It was this mainly that drew him into the discussion of 1826. "This toleration by the church of pluralities," he exclaimed, in the eloquent and impressive oration which on that occasion he pronounced, "neutralizes the whole force and authority of its voice when it calls, whether upon rulers of the state, or rulers of the city, for

Narrative returns to Dr. Chalmers.

His speech in the debate of 1826.

CHAP. IV.

the subdivision of parishes. When the clergyman of some enormous city parish is allowed to be a professor also, with what face can we lift any remonstrance about the magnitude of his charge,—or expect that the public shall be at the expense of a new functionary to relieve that man, who, in fact, has deprived them of the services of an old one—by holding himself forth as competent to double duties, or at all events by engrossing the double emoluments? This monopoly of offices by churchmen is utterly at antipodes with that high object of patriotism, the multiplication of churches in our land. * * * * The appeal of this venerable house for more of churches and parishes in the over-crowded cities of our land, had been lifted with tenfold force, were it not for the policy by which you have neutralized it. Your voice has been like that of a trumpet which soundeth uncertainly: and so long as you countenance pluralities, your testimony in behalf of a greater number of parishes will neither be respected nor relied on." It was on this broad and palpable ground of the damage done to the cause of learning on the one hand, and to pastoral efficiency on the other, that Dr. Chalmers took his stand against pluralities; and it will be found, as we proceed, to have been on grounds of the same practical kind that he took his stand in support of non-intrusion, and against high-handed patronage, in that memorable controversy, to the threshold of which we have now advanced.

1688 to 1833

His argument against pluralities chiefly turns on the obstacle they put in the way of Church extension.

Thoroughly practical character of all Dr. Chalmers' views on questions of Church policy

In bringing this long chapter to a close, and especially in concluding this rapid sketch of the influences and the individuals that chiefly contributed to the revival of evangelical truth and reformation principles in the church of Scotland, during the first thirty years of the present century, it is impossible to overlook the venerated name of M'Crie. His Lives of Knox and Melville, effected for those great men, as well as for the cause and the principles with which

1688 to 1833. they are identified, a service resembling that which, more recently, has been rendered to Cromwell by Carlyle. In the writings of M'Crie, the Scottish reformers and the Scottish reformation received a vindication so complete and decisive as to have dispelled, at once and for ever, the clouds which prejudice and calumny had combined, in an infidel and irreligious age, to gather around them,—and to have kindled in their behalf the old national enthusiasm once more. Himself deeply imbued with the pure theology, the profound learning, the stern principle, the christian patriotism of the founders of the Scottish church, he could thoroughly understand and estimate both the men and the work he had undertaken to describe. The comparative neglect into which the study of the religious movements of the sixteenth and seventeenth centuries had previously fallen, gave to the whole subject, when thus brought up again before the public mind, not a little of the freshness and the charm of a discovery. Multitudes whom ignorance and misrepresentation had succeeded in making almost ashamed of their ecclesiastical ancestry, now learned to glory in the reformers as the best benefactors of their country. Nor was it among religious men alone that such feelings were awakened or confirmed. The interest inherent in the record of great events and stirring times, secured numerous and attentive readers among all classes of society; and that interest, especially for the higher order of minds, was powerfully enhanced by the historian's manly vigour of thought, profound political sagacity, and intense sympathy with the cause of truth and right. The influence thus exerted by the writings in question was obviously and altogether on the side of the evangelical and reforming party in the church: it commanded greater respect and consideration, both for them and their principles, and hastened the arrival of that period when these principles at length obtained the ascendency in the councils of the church.

Writings of the Rev. Dr M'Crie: they did for the Scottish Reformers what Carlyle has done for Cromwell.

The state of neglect into which the religious movements of the 16th and 17th centuries had previously fallen.

The charm which M'Crie imparted to these long-forgotten themes, and the influence thus exerted on the reformation of the Church.

CHAP. V.

THE BALANCE OF PARTIES.

CHAP. V.

The charge that the measures adopted by the Church in 1834 were uncalled for.

IT has been sometimes alleged, that the measures which 1833
were adopted by the general assembly, in 1834, and which gave occasion to the ten years' conflict, were uncalled for and unnecessary. This has been affirmed even by some of those who wish to be understood as not altogether approving of the policy of moderatism. Things, it has been usual for such persons to say, were going on well enough,—patrons were showing more deference to the wishes and welfare of congregations,—the church was increasing in efficiency, and gaining upon the affections and confidence of the community! Under cover of such vague and general statements as these, attempts have been made to create an impression that the course on which the church entered, at the period in question, was altogether gratuitous, and that the commotions and collisions which ensued, were as needless as they were injurious. However, some well-meaning people may have suffered themselves to be led away by representations of this kind, and to be prepossessed, in consequence, against the reforming party in the church, it cannot be difficult to establish, upon this point, a very different conviction in the minds of those who are disposed, in the exercise of common candour and intelligence, to examine the case for themselves. Indeed, justice cannot be done either to the measures in dispute, or to the men who carried them through the courts of the church, without taking into view the whole circumstances in which these measures were introduced. The consideration of these circumstances, instead of proving that nothing needed to have been done at all, will be found to

The attempts made to create a prejudice against the evangelical party.

Facts will show that the measures of 1834 were urgently required.

1833. furnish the most conclusive argument in favour of the course which the church actually pursued. CHAP V.

It must be sufficiently apparent from the foregoing narrative, that both honesty and consistency demanded from the evangelical party, that means should now be taken to put an end to those abuses and oppressions in the administration of ecclesiastical affairs, against which they had so long protested. However sufficient such protestations might have been to guard their own integrity, and to keep them clear of the charge of becoming partakers in other men's sins, so long as their party constituted a mere minority in the supreme court of the church, such a vindication would have been no better than a delusion and a mockery when the actual government of the church had passed into their hands. The principle, in particular, that "no pastor should be intruded on a congregation contrary to their will," was one in regard to which it was impossible they could be silent. The neglect of it had formed their standing quarrel with moderatism for a hundred years. Riding rough-shod, as moderatism had done for two or three generations, over the neck of that principle, it had disgusted and driven away from the church's communion, tens of thousands, nay, hundreds of thousands, of the best of her people. And although "the forced settlements" of the preceding century, when ministers were often thrust into parishes by the help of a band of soldiers, might now be of comparatively rare occurrence, it did not follow for that reason, that it had ceased to be necessary to secure to congregations the protection which the non-intrusion principle was designed and fitted to give. In so far as forced settlements had disappeared through the greater consideration which some patrons had been showing for the interests and inclinations of the people, the improvement was both limited in extent and most uncertain as regarded its continuance. But in truth, the cessation of the

Consistency and honesty demanded the adoption of these measures.

They were demanded by a regard to the interests of the Church.

The improvement which had taken place in the exercise of church patronage was limited, and its continuance uncertain.

CHAP. V. scandal in question was, in very many cases, due to altogether a different cause. "If you dislike the minister offered to you by the patron, you can become dissenters,—the door is open for you to leave the established church." Such was the remedy which, in its reckless zeal for absolute patronage, moderatism had been accustomed to offer to the people; and the people had learned how to use it. The settlement of a minister in a parish had ceased, from such causes, to awaken that deep and universal interest among the parishioners which, in other and better times, had attended it. They had found it vain and hopeless to enter into a contest with the courts of the church, which had so long and so systematically disregarded their voice. If the minister nominated by the patron, and settled, as a matter of course, by the presbytery, turned out to be an active and useful pastor, they gathered with more or less cordiality around him. If he proved, on the other hand, as still not unfrequently happened, to be a man careless of the responsibilities of his office, or destitute of the capacity and the qualifications necessary to make a useful minister, they either withdrew quietly to seek food for their souls in some dissenting church, or sunk, as was too often the case, into a state of religious indifference, and perhaps neglected divine ordinances altogether. 1833.

The absence of opposition at the settlement of ministers was often due to indifference or disgust.

The necessity still existed for a movement in favour of non-intrusion.

The mere fact, therefore, either that disputed settlements were not now of frequent occurrence, or that a better and more enlightened feeling had, for the time, made its way among some of the holders of church patronage, in no degree diminished the necessity for steps being taken to revive and enforce the principle of non-intrusion. During the long reign of moderatism, the evangelical party had uniformly condemned the system by which that principle had been trampled on, not only as a violation of sound policy by alienating the people from the church, but as a

1833. direct infringement upon the law and constitution of the church itself. The time had now come for making proof of their sincerity. CHAP. V.

The course which all their past professions thus dictated and required, the state of the times rendered still more urgent and indispensable. Two events had occurred, either of which, of itself and alone, would have been enough to justify, and even to necessitate, some concession to the popular voice: but which, together, pressed with a force which nothing but infatuation could have ventured to disregard. The one of these events was the then recent adoption of the great measure of parliamentary reform. It was natural, and indeed inevitable, that the acquisition of political emancipation should make the people more impatient of ecclesiastical servitude. To be entitled to take part in the choice of their national representatives, and, at the same time, to have nothing whatever to say in the selection of those on whom they must be chiefly dependent for the religious instruction and spiritual edification of themselves and their children, could not fail to strike most minds as a painful and offensive incongruity. In England, perhaps, and especially among members of the established church of that country, the force of this remark may not be so apparent. The English people have always been more jealous of their political than of their ecclesiastical rights. This may probably have arisen from the circumstance, that the members of the church of England have never been permitted to take any part in ecclesiastical affairs. The fact, too, that so large a portion of the ordinary church service performed by their clergy is taken from the liturgy, and that, to this extent at least, the congregation are very little dependent on the qualifications of the officiating minister, may have tended considerably to lessen their interest in the question of his appointment. The preceding chapters can

Events which rendered this necessity more urgent.

The Reform Bill, and the stimulus it gave to the demand for popular privileges.

The people of England less jealous of their ecclesiastical than of their political rights.

CHAP. V. hardly have failed to show in how entirely different a position matters have stood in Scotland, from the reformation downwards. The rights of the Christian people in the election of their ministers were expressly recognized in the very earliest standards of the Scottish church, and the assertion of these rights had formed, all along, one of the salient points of Scottish ecclesiastical history. The absence, moreover, of a liturgy, and the necessity thence arising in the church of Scotland, that the congregation must look to the officiating minister, not merely to proclaim to them the word of life, but to be the exponent of their devotional feelings and spiritual desires at the throne of the heavenly grace, served, no doubt, to lend additional importance, in their eyes, to the whole subject of the choosing and calling of those that were to be over them in holy things. 1833.

Causes which have made the Scotch more alive to the importance of being consulted in the choice of their ministers.

In point of fact, to many of the most pious and patriotic of the Scottish people, the main charm of the reform bill was to be found in the prospect which it held out to them of getting rid of the yoke of church patronage. Anti-patronage societies sprung up not only in the great cities and chief towns, but in multitudes even of the quiet villages and rural parishes of the country. At the hustings, the abolition of patronage took its place at once, as one of the chief testing questions of the time. As indicating the extent to which the question had taken hold of the public mind, it is enough to state, that so early as the spring of 1834, a large and influential committee of the house of commons, consisting of no fewer than forty members, was appointed "to consider the past and present state of the law of church patronage in Scotland, and to inquire how far that system is in accordance with the constitution and principles of the church of Scotland, and conducive to its usefulness and prosperity, and to report their observations thereupon to the house." Nor can there be a doubt in the mind of any one

Popular movement for the abolition of patronage.

In 1834 the House of Commons appoints a committee to consider the subject.

1833. conversant with the subject, that the main reason why that committee contented itself with reporting, in the month of July thereafter, simply the evidence it had taken upon the subject, and not giving to the house any recommendation of its own, was to be found in the fact, that the law which had been meanwhile adopted by the general assembly was considered as having met the exigencies of the case, and as having rendered parliamentary interference unnecessary. Certain it is, that so little did the law, which the assembly had in the interval adopted, awaken the jealousy of parliament, or appear to be deserving of blame, that it was in the full knowledge of what the assembly had done, the parliamentary committee, speaking of the church of Scotland, in the report which the house unanimously adopted, made use of the following words:—"Your committee most earnestly recommend to the legislature the defence and preservation of an establishment, with the permanence of which, in their judgment, the general prosperity and moral welfare of Scotland may be considered as intimately interwoven."

Reason why the parliamentary committee abstained from recommending a change of the law.

There was, however, as has been already hinted, another reason for something being done in the way of restoring to the members of the church their ancient rights and privileges, in the calling and settlement of their ministers, besides the fact that the reform bill had so recently become the law of the land. The same political franchise, the possession of which prompted and enabled the members of the church to bring their influence to bear on the reform of their national religious establishment, furnished equally the opponents of that establishment with a powerful instrument for effecting its overthrow. Among that large section of the community which the law of patronage—and, still more, its high-handed enforcement by the moderate party—had driven from the established church, principles had been gradually growing up, adverse to national religious establishments altogether.

Attack upon Church Establishments,—an additional reason for ecclesiastical reform.

Prevalence among dissenters of anti-establishment principles.

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Although these principles formed no part of the grounds of their original secession from the national church, and have not been made any part of their public profession, as churches, even to the present day, they had come to be extensively embraced by a large proportion both of their ministers and people. In addition, moreover, to those who had thus become hostile to church establishments on professedly religious grounds, it seemed, for the time, to have been regarded as a part of liberal politics to contend against the endowment of religious teachers by the state. It was taken for granted, by at least a considerable section of those who belonged to that school of politics, that the supply of religious instruction to the community should be left to the operation of the same principles which regulate the supply of any secular commodity. The tide, accordingly, set in suddenly and strongly against the very existence of the church as a national establishment. Voluntary-church societies, as they were then commonly called, that is, societies opposed to the union of church and state, sprung up in all directions. The platform and the press were plied, with incessant activity and energy, in disseminating their anti-establishment views. The religious voluntary denounced all church establishments as inconsistent with the liberty and spirituality of Christ's kingdom; while the political voluntary condemned them, in not less unqualified terms, as founded on the exploded and now universally repudiated principle of monopoly, as grossly violating the principles of free trade, as involving all the odium and iniquity of class legislation, taxing one section of the people for the benefit of another, and therefore carrying in them a gross political injustice. It was in reference to this growing and powerful movement that, in answer to a letter requesting his attendance, along with other friends of the establishment, at an anti-patronage society meeting at Aberdeen, Dr. M'Crie, in the month of

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Union of political liberals with the dissenters in their attack on the Church Establishments.

Voluntary Church societies: their efforts and activity.

1833. October, 1832, wrote as follows:—"I have long acted in support of a testimony against certain evils, both in the administration of the church of Scotland and in the laws by which she is established, of which patronage, though not the only, is a leading one;* but I am a decided and sworn friend to her reformed constitution, and to the legal establishment of it, and my principles lead me to seek the *correction* of the evils, not the *overthrow* of the church, or the subversion of her establishment. I regret the spirit of strong and increasing hostility to all establishments of religion which has manifested itself, though, perhaps, it was necessary to awaken their friends to a sense of their duty, and may be overruled by providence for inducing them to adopt those measures of reform, without which, in my humble opinion, the threatened danger cannot be ultimately, perhaps not long, averted. It is now nearly forty years since those with whom I was in immediate religious fellowship gave warning of the coming agitation; and, I am sorry to say, it was but little regarded by those whom it most nearly concerned. *No defence of establishments, how able soever it may be, will be effective on the public mind, in opposition to felt grievances and undeniable corruptions.*"

Counter-movement of the friends of the Established Church: and Dr. M'Crie's opinion as to the necessity of reforming its abuses.

Such were the views of the distinguished author of the lives of Knox and Melville, as to the course which both duty and policy then dictated to the friends of the church of Scotland. So thoroughly did these views commend themselves to the great body of those who were most active and efficient in defending the church establishment, that the societies which almost everywhere were promptly formed for the defence of the church, engaged, at the same time, to seek its reformation too—and in particular, to seek, in some form or other, the practical enforcement of the principle of

Church-defence societies all formed on the principle of seeking reformation generally; and in particular the revival of non-intrusion.

* Dr. M'Crie was himself a seceder.

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non-intrusion in the settlement of ministers. It was felt by all who took part in that great and arduous controversy, that however successful or even triumphant their demonstration might be of the lawfulness of church establishments, that demonstration would be altogether impotent as a defence of existing institutions, so long as, either by their laws or by their actual administration, they were doing violence to the just rights and privileges of the christian people. 1833.

The movement of the evangelical party, in 1834, essentially conservative.

Nothing, therefore, can be more groundless than the idea that the evangelical party were carried away by a spirit of rash and reckless innovation, in proposing and carrying those measures upon which the disruption controversy came afterwards to turn. The charge is both ungenerous and unjust. It was the policy of moderatism which had nursed the long gathering storm, whose fury was now threatening the safety of the establishment. The reader will judge as he proceeds, whether the contrary policy, which signalized the ascendency of their hereditary opponents in 1834, was not the true lightning rod to catch the fiery thunderbolt, and to bury it safely in the ground. The causes now alluded to—the impulse namely that was given by the reform bill to all questions connected with popular rights—and the contemporaneous attack upon national church establishments —though they served powerfully both to strengthen the force and to accelerate the triumph of the policy of 1834, did not originate that policy. In the proceedings of the evangelical party, at the period in question, there was nothing whatever that was new. The vessel did not shift its course by one single point. It only sped forward, beneath the freshening gale of those stirring influences that were now abroad, with greater momentum and velocity. The courts of the church became the arena of more frequent and earnest discussions on questions of ecclesiastical reform. The subject especially of the rights of congregations in the

Voluntaryism and the Reform Bill, accelerated but did not originate the movement of the evangelical party.

1833. calling and settlement of their ministers, was pressed every year with increasing urgency upon the notice of the general assembly. The overtures regarding it, which came up from the synods and presbyteries of the church, were not by any means at one as to the remedy which ought to be applied. While some struck boldly at the root of the evil complained of, by assailing the law of patronage, and calling on the assembly to petition parliament for its immediate and total abolition; others, rather less confident in the safety of leaving the choice of ministers entirely to the congregations themselves, or at any rate less hopeful of succeeding in a measure so strong, were disposed to acquiesce in any arrangement that would give practical effect to the principle of non-intrusion. Those who took this latter view, and who at that time constituted a large majority of the evangelical and reforming party in the church, sought to have the interests of the congregation protected by rescuing "*the call*" from the state of utter inefficiency and mockery to which moderatism had reduced it, and by giving it what the law and constitution of the church both implied and required —a potential position in the settlement of every minister.

The inferior Church courts address the Assembly in favour of non-intrusion.

Majority of evangelical party in favour of reviving the call.

And here it may be necessary to explain what this call of the congregation is, and what is the place which it occupies in the process of forming the pastoral tie, between a minister and his flock. When a parish becomes vacant, the patron issues his presentation in favour of the individual whom he wishes to nominate. In this document, he requests the presbytery within whose jurisdiction the vacant parish lies, "to take trial of the qualifications, literature, good life, and conversation," of the presentee—and "of his fitness and qualifications for the functions of the ministry, at the church to which he is presented." The right, therefore, to have the presentee inducted, is acknowledged by the very terms of the presentation, to be only a contingent right—and the

Place which the call occupied in the settlement of ministers in the Scottish Church.

CHAP. V. step now about to be described, forms an important part of the contingency by which the right is limited and controlled. 1833.

The very first act of the presbytery is to send the presentee to the vacant parish, to conduct public worship, and to preach to the congregation on one or more sabbaths, that "the people may have trial of his gifts for their edification." Thereafter, the presbytery hold a meeting, pursuant to notice given publicly from the pulpit of the vacant parish, at least ten days before, for the purpose of ascertaining whether the congregation are prepared to give the presentee a "call" to be their minister. On this occasion, after public worship and the preaching of the word by one of the ministers of the presbytery, the document, named the call, is produced and read, and intimation is given to the people that they may now have an opportunity of subscribing it, if they be minded so to do. The document in question is addressed to the presentee, and runs as follows:—"We whose names are subscribed, heritors, elders, and others, of the parish of ——, being destitute of a fixed pastor, by the death (or otherwise, as the case may be) of the Rev. ——, our late minister, and being well assured of the ministerial abilities, piety, and prudence, of you the said ——, have agreed, with the concurrence of the reverend presbytery of ——, to invite and call, like as we by these presents do invite and call you to undertake the office of pastor amongst us, and we promise, on your accepting this our call, to give you all suitable respect and obedience in the Lord."

Circumstances in which the congregation are invited to sign the call.

The terms of the call.

This grave and solemn transaction, according to the law and practice of the church of Scotland from time immemorial, forms the first and fundamental step in the process of investing a minister with a cure of souls. When the call has been subscribed, the presbytery proceed to consider the question—ought it to be sustained? And that question,

Judgment of the Presbytery as to the sufficiency of the call.

1833. by a formal resolution of the presbytery, entered upon their records, they must decide in the affirmative, before they can do anything else whatever, in the way of going on with the settlement. The theory of this procedure is obvious. The church of Scotland does not sanction a *ministerium vagum;* it does not confer the ministerial office where no field is provided, in which to exercise it. In accordance with this rule, it first ascertains, through the medium of the call, whether the individual seeking holy orders has such a field open to him. If it were the presentation of the patron that gave him this field, then would the presbytery go at once into the examination of his personal qualifications for the sacred office, without approaching the congregation at all. But, because, according to the standards and laws of the church of Scotland, the question whether the field for the proposed ministry be open, must be determined, not by the patron or by any other external party whatever, but by evidence furnished by the congregation itself,—hence the position which the call occupies at the very threshold of this business. Having found the call sufficient, it is then, and not till then, the presbytery finds itself at liberty to deal, in the way of examination, according to its own prescribed methods, with the presentee. It does not follow, indeed, that though a sufficient call has been given—in other words, that the congregation is satisfied to receive him—the presbytery, as matter of course, are to be satisfied too. The decision of the presbytery must be given on other and independent grounds. But still, before proceeding to consider these other and independent grounds, he must first have a verdict from the congregation in his favour. He may have got the people's verdict, and yet fail to obtain the verdict of the presbytery: but he cannot have the verdict of the presbytery without first obtaining that of the people. And as it is thus upon the call of the congregation the

Theory of this whole proceeding.

Without a call to the presentee, the presbytery cannot proceed to take him on trials.

CHAP. V. process of ordaining a minister to a cure of souls begins— 1833.

Process of a minister's ordination and settlement begins and ends with the call.

so it is again upon the call the process is made finally to terminate. For after the presbytery have taken their own methods of testing the personal qualifications of the presentee, and have assembled in presence of the congregation to bring the whole matter to a close, the services of the occasion are concluded thus:—Before the presbytery and the people, the officiating minister lays upon the presentee the ordination vows. In none of these is there the slightest reference to the deed of the patron; but they terminate with this pointed reference to the deed of the people: "Do you close with, and accept the call, to be minister of this congregation, and promise through grace to perform all the duties of a faithful minister of the gospel among this people?" His answer in the affirmative to that solemn inquiry, is the signal for the consummation which follows,—the setting him apart by prayer and the laying on of the hands of the presbytery, to the office and work of the holy ministry among that people, as under the Lord Jesus Christ, the "shepherd and bishop" of their souls.

Place which the call occupies in the ordination vows.

Such was the place which belonged to the "call" of the congregation, in the settlement of ministers in the established church of Scotland. Moderatism, it is true, as the narrative contained in a foregoing chapter sufficiently shows, had done what it could to convert all this into an empty and indecent mockery. But the very form and frame-work of the call protested against that abuse, and prevented its rightful character and claims from being, even in the worst times, altogether forgotten. To restore the call to a state of practical efficiency, seemed to be the readiest way of correcting a great evil, and of giving, at the same time, contentment to congregations, by securing to them their ancient constitutional privilege. It was by no decision of the courts of civil law the call had been emasculated, but

To give efficiency to the call seemed the readiest and most constitutional way of enforcing the principle of Non-intrusion.

1833. solely by the oppressive acts of the courts of the church. What the church had done contrary to her own law and constitution, it was surely competent to undo, by returning to the course which her constitution and law had all along prescribed. To effect the removal of patronage altogether, the interposition of parliament would have been indispensable. And, apart from the question whether or not it was desirable to have patronage done away, many, and these not the least influential members of the evangelical party, shrank from the responsibility of placing the church, for any purposes affecting her own internal interests, in the hands of parliament. With a legislature as intelligent in the history and laws of the presbyterian church, and as much in harmony with its principles as the Scottish parliament of 1649, or even of 1690, there could have been little hazard or difficulty in dealing about ecclesiastical affairs. The case was thought to be materially different, as regarded any such intromission with Scottish ecclesiastical affairs, by the British parliament of 1834. Whether the more cautious policy, advocated on such grounds as these, was, after all, the best and wisest, is not here the point to be considered. It was the policy which prevailed, though not, perhaps, altogether by its own unaided strength. The indisposition of the leading parties in the state, and of the political friends of the whig ministry in the church, to abandon the law of patronage, was, undoubtedly, a powerful weight on the same side of the scale.

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Disinclination of the Assembly to go to Parliament, and the reasons why.

The resolution was accordingly taken, by those who chiefly guided the movements of the evangelical party in the church, to attempt that work of ecclesiastical reform which both the times and their own principles so urgently demanded, by calling into exercise the legislative powers of the church herself. Not, indeed, that all who belonged to the evangelical and reforming party concurred in the deter-

Resolution taken to attempt the desired reform by the inherent power of the Church.

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mination, that no steps should be taken to procure from 1833 parliament the repeal of the law of patronage. To that determination a section of the party gave, on the contrary, and from the very first, the most strenuous opposition. They acquiesced, it is true, and without difficulty or hesitation, in the measures now about to be proposed in reference to the call of the congregation. To rescue the call from the state of inefficiency to which it had been reduced, was an obvious and immediate duty, whatever might become of the law of patronage; and a duty to the discharge of which the church was all the more bound to address herself honestly and without delay, that she had the regulation of the call in her own hands. Without abandoning, therefore, for a moment, their views or intentions in regard to the propriety and necessity of labouring to effect the total overthrow of what the church's own standards and laws had so often and so righteously stigmatized as the "grievance of patronage," they made common cause with all those who were now agreed about putting fresh life into the call. But how was this to be done? In the private conferences that were held upon the subject, as well as in the public discussions which took place in the presbyteries and synods of the church, various plans were proposed. It was the suggestion of some, that the best course for the church to adopt was to have recourse to her judicial rather than to her legislative power; in other words, by a series of sound decisions, refusing to sustain any call that did not exhibit a *bona fide* concurrence on the part of the congregation, to make once more a reality out of that which had been too long treated as an empty name. To this method, however, there were many obvious and formidable objections. It implied that, as each case arose, the question would still be open—What is a sufficient call? The endless and harassing litigations to which that state of matters must expose

The anti-patronage party concur in the measures for reviving the call,—while they retain their purpose of seeking the entire abolition of patronage.

Should the desired reform be brought about by the passing of a general enactment, or by a series of judicial decisions?

1833. both the congregations and the courts of the church, for at least a long period of years, and till precedents had so accumulated as to create a common law upon the point, would be of itself an intolerable evil. It was precisely by the vexatious delays, disappointments and expense, which a similar course of procedure during the preceding century involved, that the people had been tempted, in so many cases, to seek redress by the shorter and more summary process of abandoning the national church altogether. The now greatly diminished strength of moderatism might, no doubt, have been reasonably enough expected to diminish the risk of any recurrence to the tyranny of former times, and to afford to congregations a much greater assurance of justice being done to their cause in the general assembly. But such a mode of redressing the evil complained of was too remote and uncertain in its operation, at all to meet the exigencies either of the case or of the times. It was not promise but performance, that alone could now convince the great body of the members of the church, that the assembly was in earnest. Moreover, there were difficulties of another kind connected with the plan in question not less fatal to its adoption. The long-continued contempt with which the call had been treated, had deprived it, to a large extent, of respect or confidence in the eyes of the people. Having seen, in cases innumerable, a single name or two— and these, perhaps, not belonging to any member of the congregation, but to some non-resident landlord or factor on his estate—accepted and founded on as "*the call of the people!*" and this too in the face of the known and manifested opposition of the congregation to the settlement,—it is no wonder that they had become, in a great degree, indifferent to what they were thus taught to regard as an idle and often offensive ceremony. This state of mind, induced and confirmed by a long course of bad ecclesiastical deci-

Objection to the mode of proceeding by a series of decisions.

Performance and not promise was what the case demanded.

The past proceedings of the Church had destroyed the people's confidence in the call.

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sions, it was not to be supposed, would disappear in deference to a mere announcement by some leading person in the general assembly, that the church intended in future to deal more respectfully towards the call, and towards those congregational rights and privileges which it was designed to secure. What then was to be done if, under the influence of a popular apathy, for which the church was itself responsible, an unexceptionable presentee should turn out to have hardly a signature to his call? Was the call, as matter of course, to be rejected as insufficient, and the presentee to be thus made the victim of the past misconduct of the church; or was the call to be sustained, notwithstanding of its having the concurrence of only a tithe, or a twentieth, or a hundredth of the people, on the ground that silence must be taken for consent? No one at all acquainted with the subject could fail to foresee, in such contingencies, the materials for endless embarrassment and confusion in the church courts, and for the gravest misunderstandings among the people. 1833.

Their apathy might cause, either the rejection of an unexceptionable presentee, or oblige the presbytery to sustain a call signed by a mere fraction of the parishioners.

For these and similar reasons, it came to be felt and acknowledged by all who were interested in the success of the proposed reform, that the remedy sought for must be found, not in the judicial, but in the legislative functions of the church. By laying down once for all in the form of a declaratory law what should be held to constitute a violation of the non-intrusion principle, the inferior courts of the church would be relieved from numberless perplexities, uniformity would pervade their decisions, and the rights and duties of all the parties concerned would be distinctly known and understood; and while so many evident and important practical benefits might be expected to result from the adoption of such a course, it was not easy to see any objection to its competency. If it was not a mere delusion that the non-intrusion principle had an actual footing in the

Reasons for preferring a declaratory law.

1833. constitution and law of the church; if the evidence adduced in an earlier part of this work, from the standards, the acts, the decisions, and whole history of the church, to illustrate the standing which that principle possessed from the reformation downwards, had any foundation in truth; it seemed to follow of necessity that the church must have the power of defining that principle and taking measures to see it enforced. CHAP. V.

Everything in her past history seemed to justify the assumption that the Church was competent to pass such a law.

There were obviously two different ways in which this might be done. It might be ruled by a declaratory enactment, either that a certain amount of positive concurrence on the part of the congregation should be necessary in order to warrant a presbytery in proceeding with the settlement of a minister, or that a certain amount of positive dissent should be conclusive to hinder the settlement. The former of these methods appeared to many to be the more simple and natural of the two, and to be most in harmony with existing forms; others, however, and these men of great weight and influence, conceived it to involve difficulties that would prove insuperable. Less than a majority of those entitled to have a voice in the calling and settlement of their minister, could not well be taken as the amount of concurrence necessary to indicate the positive consent of a congregation, and yet it might be often found altogether impossible, even when no objection to the proposed minister existed, to induce a majority of the congregation to come forward and place themselves in the responsible attitude of positively calling him. In this way the patron's nomination might come to be rendered nugatory from no fault either on his part or on that of his presentee. Ignorance or apathy, or a scrupulous conscience which shrunk from countersigning the patron's selection, from the want of sufficient information concerning the man of his choice,—these and various other causes of a similar kind might arise to obstruct the

Two forms, into one or other of which the law might be thrown.

Objections to the plan of requiring the expressed consent of a majority of the congregation.

CHAP. V. settlement under the plan of requiring the positive concur- 1833.
rence of the congregation, and so as to inflict serious injury, if not actual injustice, on all the parties concerned. The effect of all this, it was thought by those who took the views now stated, would inevitably be to keep parishes long vacant, to embarrass the church courts, and to beget among the patrons a decided hostility to the law of the church from which those inconveniences arose.

This plan might protract vacancies and was likely to be unpalatable to patrons.

Partly in deference to such considerations as these, and partly out of deference to those by whom they were urged, the supporters of the positive call gave way to the other alternative that was proposed,—that of protecting congregations against the intrusion of unacceptable ministers by declaring that the dissent of a majority should bar the settlement. This method had several very important advantages to recommend it. There was nothing self-destructive in it. It was fitted to work. There could be no such thing as what chess-players call a *stale-mate* under it. If a majority of the congregation opposed the settlement, it would be arrested; if not, it would go on. If, therefore, an intrusion took place, it must be through the people's own fault. And while the rights of the congregation, in so far as the non-intrusion principle was concerned, were thus effectually guarded, the ordeal to which the presentee was subjected was considerably less stringent than that created by the positive call. Many through indolence or indifference, or insufficient information, might hinder a settlement —when, in order to do so, they had merely to withhold their names from the call,—who yet would by no means hinder it at the expense of coming personally and individually forward and publicly tendering their dissent. It seemed, therefore, a fair and reasonable calculation, that this latter mode of effecting the proposed reform, if it did not secure the approbation of the patrons, would at least

The plan of the dissent or veto preferred, and the grounds of that preference.

1833. awaken less of their opposition. Certain it is there was no desire on the part of those who had the chief hand in bringing forward the measure now described, either to overthrow the rights of patrons, or to come into unfriendly collision with those to whom these rights belonged. It was their honest belief, on the contrary, that without such a concession to congregations as this measure involved,—a concession which, after all, was only restoring a privilege of which they ought never to have been deprived,—patronage could not possibly be maintained.

The veto was adopted in no spirit of hostility to the rights of patrons.

These observations may help the reader to a better understanding of the proceedings about to be described. Events now indicated, not unequivocally, the near approach of the period when moderatism must surrender the lead in ecclesiastical affairs,—and when reformation principles, after the long lapse of a century, were destined once more to prevail in the councils of the church. In the year 1832, overtures from three provincial synods and from eight presbyteries had been laid on the table of the assembly, recommending that steps should be immediately taken to restore its ancient and constitutional efficacy to the call. The proposal founded on these overtures—that they should be remitted to a committee—was lost, and the negative carried by a majority of forty-two. The defeated call thus thrown back upon the inferior courts, reappeared at next assembly in greater force than ever. Instead of *eleven* the immense number of *forty-two* overtures now loaded the table of the house,—announcing the significant fact that the question had been already triumphant in that large number of the synods and presbyteries of the church. These multiplying overtures made it no longer doubtful that the crisis of the question was at hand,—and rendered it absolutely necessary that their supporters, unless they desired to defeat their own object, should come to some agreement as to the

Movement in the Church courts for reviving the call.

Overtures on this subject at the Assembly of 1832, and their rejection.

Their number quadrupled in 1833.

CHAP. V. practical measures they were prepared to recommend. 1833.

Resolution taken to fight the battle of non-intrusion on the plan of the veto.

Under the influence, accordingly, of such views and considerations as have been sketched above, the resolution was finally taken to fight the battle of the call and of non-intrusion on the plan of the VETO.

It was in the assembly of 1833 that celebrated measure was first announced, and formally debated; and seldom has any public measure been brought forward under auspices better fitted to commend it to general confidence and esteem.

The veto brought forward in 1833 by Dr. Chalmers and Lord Moncrieff.

Introduced by Dr. Chalmers, and supported by Lord Moncrieff,—the one the most illustrious of divines, the other, long the acknowledged head of the Scottish bar,—whatever weight could be given by the matured wisdom and commanding eloquence of the ecclesiastic, or by the profound legal knowledge and practical sagacity of the judge, the proposal of 1833 had upon its side. The debate was opened by the Rev. Dr. William Thomson, of Perth, in a speech replete with intelligence. He called upon the house "to observe distinctly in the opening of this discussion, that the object specially aimed at by the overtures, was not any change in the constitution of the church of Scotland on the subject of calls, but a return to the observance of the constitutional principle in the administration of calls. We wish," he said, "for no new legislative enactment, but for such an explicit declaration as may render calls no longer what they have for sometime been,—a mere ineffectual and unmeaning form: but what they were in former times, an effective and substantial reality." After one or two other speakers had submitted their views, Dr. Chalmers rose. It was known that the motion to be made, in support of the overtures, had been placed in his hands, and both parties were alike impatient to hear him. The remark has been already made, that the natural position of this great man was among the economists, rather than among the jurists,

Debate of 1333: speech of Rev. Dr. William Thomson.

1833. of the church. In matters ecclesiastical, he was much more taken up about the working of a system, than with the theory of its constitution; and was sometimes, in consequence, disposed to estimate at less than their real worth and magnitude, questions of constitutional reform. This characteristic of his habit of mind, was not indistinctly exhibited in the introductory sentences of his speech: "He had not any great faith in the efficacy of a renovated constitution for bringing forward a renovated spirit, or a renovated character either, among their ministers or people. It seemed to him like the problem of the best construction for a house, with the misfortune of having nothing but frail materials to build it with, in which case the study of the fittest proportions for durability and strength were of little avail to them. He was not denying that there was an optimism of form in ordinary architecture, and also an optimism of form in the architecture of an ecclesiastico-political fabric, if he knew but how to find it, an absolutely best and most perfect framework, which might be obtained by somehow altering the present relation of its parts, and fixing on other adjustments of proportion and power, between the men of the congregation, and the men of the session, and the men of the presbytery,—and last of all, the man whom it is now proposed to remove altogether from the place which he at present occupies on the apex of the structure (Dr. C. here alluded to the proposal of entirely abolishing patronage), and who has so long held the initial, and a great deal too much of an absolute voice in the appointment of ministers. By these changes power will be differently partitioned, and the constitution forced into a different sort of body politic from that which it was before: but it ought ever to be kept in mind, that we have nothing after all but poor human nature to piece and to build it with, and that with such materials we in vain expect to make good our

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Speech of Rev. Dr. Chalmers

The little importance he attached to mere constitutional reforms.

His argument on this subject.

CHAP. V. escape from corruption, by passing from one form to another. It is for this reason, that however much I may sympathize with many of my friends in my wishes for a pure and efficient church, I do not sympathize with them in the extravagance of their hopes. I will not be a party to the delusion, that our church is necessarily to become more christian, by the constitution of it becoming more popular, or by the transference of its authority from the hands of the few, to the hands of the many." Nothing but the peculiarity above alluded to, could have blinded a mind like that of Dr. Chalmers to the obvious fallacy which runs through this argument. It is begging the whole question, in a dispute with the advocates for the repeal of the law of patronage, to assume that what they were seeking for amounted to nothing more than a transference of power from the few to the many. It was not *numbers* alone or chiefly, but *quality* that was concerned in the case. The quality of a patron *as such*, cannot be put on the same level with the quality of a communicant *as such*, in regard to fitness for the exercise of power in the appointment of a christian minister. The quality, in virtue of which the patron is called to exercise that power, is purely *secular:* that, in virtue of which the communicant is called to exercise it, is purely *spiritual.* The patron may be an infidel or an atheist, a fool or a knave, a scandal to society and a foe to godliness; but because he has bought, or inherited, a certain civil right, he has the chief power in the selection of the man who is to minister in holy things to a Christian congregation. Whatever share of that power, on the other hand, may be given, on anti-patronage principles, to the people, is given to them solely and exclusively because they possess the spiritual qualification of being members of the church of Christ. To take the power, therefore, from the patron, and to give it to the communicants, is surely some-

1833.

The fallacy of this argument.

The difference in principle, between a patron *as such* and a communicant *as such.*

1833. thing more than a transference "from the few to the many." It is of course, in point of fair argument, nothing whatever to the purpose, that the patron may after all be a spiritual man, and the communicant after all an unspiritual man. It is not by its accidents, but by its essentials, that any system is to be judged. So far as the system of patronage is concerned, it is the accident that the patron should possess any spiritual qualification,—whereas, according to the system of church-membership, it is the accident that spiritual qualifications should not belong to the communicant. True, it is still "poor human nature" that is the material we have to work with, in both cases alike: but it is human nature under two totally distinct and different conditions.

The abolition of patronage not a mere question between the *few* and the *many*.

Every system must be judged of by its essentials and not by its accidents.

The obvious and eager satisfaction with which moderatism listened to the speaker, so long as he was occupied in proclaiming his distrust of popular election, and picturing with his peculiar and graphic power the mischiefs to which he feared it might give birth, disappeared at once, when leaving that point he proceeded to turn the full thunder of his indignant eloquence against the opposite extreme of an unqualified and despotic patronage. "The great complaint," he went on to say, "of our more ancient assemblies, the great burden of Scottish indignation, the practical grievance which, of all others, has been hitherto felt the most intolerable and galling to the hearts of a free and religious people, is—the violent intrusion of ministers upon parishes. An effectual provision against this enormity, this unfeeling outrage which, in the exercise of a reckless and unprincipled patronage, has so often been perpetrated in our beloved land, an outrage by the appointment of an ungodly pastor on the rights of conscience, and the religious sensibilities of a sorely aggrieved people,—a provision against so deep and so wide a moral injury as this to the families of a parish, I should feel the most valuable of all the legislative

Delight with which the moderate party listened to Dr. Chalmers so long as he descanted on the mischiefs of popular election.

Their delight at an end when he turned his thunders against absolute patronage.

CHAP. V. 1833.

expedients or devices which could be proposed on the present occasion, and would welcome it all the more cordially if we had not to go in quest of it without the limits of our actual ecclesiastical constitution; or, in other words, if instead of enacting a new law we had but to declare our interpretation of an old one. Now the law of calls places such a facility in our hands: and as I feel I must not take up the time of the assembly, let me state at once, and without further preamble, my own preference as to the best way of restoring significancy and effect to this now antiquated but still venerable form,—and this is by holding the call a solid one, which lies, not in the expressed consent of the few, and these often the mere driblet of a parish; but rather than this, which lies in the virtual or implied consent of the majority, and to be gathered from their non-resistance or their silence. In other words, I would have it that the majority of dissentient voices should lay a veto on every presentation."

Dr. Chalmers explains the principle of his motion.

Having thus announced his measure, he proceeded to argue that there was nothing new in it; that it was in fact simply "the appropriate, the counterpart remedy against the evil of intrusion." And after pointing to the second book of discipline, the act of assembly 1649, and the act of parliament 1690, as affording sufficient evidence in support of this assertion; he then forcibly and beautifully illustrated the operation of the measure proposed. "If we hear little of the application or actual exercise of this remedy during the time it was in force, it was because of a great excellence, even that pacific property which belongs to it, of acting by a preventive operation. The initial step was so taken by the one party as to anticipate the gainsayers in the other. The goodness of the first appointment was in the vast majority of instances so unquestionable as to pass unquestioned; and so this provision, by its reflex

Justifies the veto by the precedents of 1649 and 1690.

The peaceful working of the right of veto.

1833. influence, did then what it would do still—it put an end to the trade of agitation. Those village demagogues, the spokesmen and oracles of a parish, whose voice is fain for war, that in the heat and hubbub of a parochial effervescence they might stir up the element they love to breathe in, disappointed of their favourite game by a nomination which compelled the general homage, had to sheathe their swords for lack of argument. It was like the beautiful operation of those balancing and antagonist forces in nature which act by pressure and not by collision, and by means of an energy that is mighty but noiseless, maintain the quiescence and stability of our physical system. And it is well when the action and re-action of these moral forces can be brought to bear with the same conservative effect on each other in the world of mind, whether it be in the great world of the state or in the little world of a parish; and the truth, the historical truth, in spite of all the disturbance and distemper which are associated with the movements of the populace is, that turbulence and disorder were then only let loose upon the land when this check of the popular will was removed from the place it had in our ecclesiastical constitution, and where it was inserted so skilfully by the wisdom of our fathers; that instead of acting by conflict, or as a conflicting element, it served as an equipoise. It was when a high-handed patronage reigned uncontrolled and without a rival, that discord and dissent multiplied in our parishes. The seasons immediately succeeding to 1649 and 1690, when the power of negation was lodged with the people, not, however, as a force in exercise, but as a force in reserve—those were the days of our church's greatest prosperity and glory, the seasons both of peace and of righteousness. Persecution put an end to the one period, and unrestricted patronage put an end to the other."

The veto works by pressure,—not by collision.

Happy effects of the veto as exercised subsequently to 1649 and to 1690.

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In studying, as this narrative advances, the after history of the measure so felicitously described, the intelligent and candid reader will probably be of opinion, that in the eulogy thus pronounced upon it by Dr. Chalmers, there was not more of the beautiful than there was of the true. One of the most plausible objections to the veto, that it gave effect to a naked dissent, unaccompanied by any statement of the reasons on which the dissent was founded, was anticipated and answered in this memorable speech with a clearness and a conclusiveness which left nothing to be added. "The people may not be able," said Dr. Chalmers, "to state their objection, save in a very general way, and far less be able to plead and vindicate it at the bar of a presbytery, and yet the objection be a most substantial one notwithstanding, and such as ought, both in all Christian reason and Christian expediency, to set aside the presentation. I will not speak of the moral barrier that is created to the usefulness of a minister by the mere general dislike of a people; for this, though strong at the outset, may—literally a prejudice or a groundless judgment beforehand—give way to the experience of his worth and to the kindness of his intercourse among them. But there is another dislike than to the person of a minister—a dislike to his preaching, which may not be groundless, even though the people be wholly incapable of themselves arguing or justifying the grounds of it—just as one may have a perfectly good understanding of words, and yet, when put to his definitions, not be at all able to explain the meaning of them. This holds pre-eminently of the gospel of Jesus Christ manifesting its own truth to the consciences of men, who yet would be utterly nonplussed and at fault, did you ask them an account or reason for their convictions. Such is the adaptation of scripture to the state of humanity—an adaptation which thousands might feel, though not one in the whole multitude

1833.

Dr. C.'s reply to the objection that a dissent without reasons assigned, was unjust.

here may be good reasons for the dissent, though a congregation cannot substantiate them by legal evidence.

1833. should be able to analyse it. When under the visitations of moral earnestness,—when once brought to entertain the question of his interest with God, and conscience tells of his yet uncancelled guilt, and his yet unprovided eternity,—even the most illiterate of a parish might, when thus awakened, not only feel most strongly, but perceive most intelligently and soundly, the adjustment which obtains between the overtures of the new testament and the necessities of his own nature. And yet, with a conviction thus based on the doctrines of scripture and the depositions of his own consciousness, he, while fully competent to discern the truth, may be as incompetent as a child to dispute or to argument it: and when required to give the reasons of his objection to a minister, at the bar of his presbytery, all the poor man can say for himself might be, that he does not preach the gospel; or, that in his sermon there is no food for his soul." Having brought out in these solemn and striking sentences how possible, nay, how likely, it was that both a strong and a solid objection might exist against the nominee of the patron, while yet that objection could not be put in the shape and surrounded with all the conditions of legal evidence,—it was in this strain of lofty and impassioned eloquence he denounced the iniquity of treating that objection as a thing of nought. "To overbear such men," he exclaimed, while his kindling eye and glowing countenance and vehement utterance proclaimed the depth and earnestness of feeling with which he spoke, "to overbear such men, is the highway to put an extinguisher on the christianity of our land,—the christianity of our ploughmen, our artizans, our men of handicraft and hard labour: yet not the christianity theirs of deceitful imagination or of implicit deference to authority, but the christianity of deep, I will add, of rational belief, firmly and profoundly seated in the principles of our moral nature, and nobly accredited

The argument illustrated.

The wickedness of overbearing the honest convictions of a christian congregation.

CHAP. V. by the virtues of our well-conditioned peasantry. In the olden time of presbytery—that time of scriptural christianity in our pulpits, and of psalmody in all our cottages—these men grew and multiplied in the land: and though derided in the heartless literature, and discountenanced or disowned in the heartless politics, of other days, it is their remnant which acts as a preserving salt among our people, and which constitutes the real strength and glory of the Scottish nation." 1833.

The motion of Dr. Chalmers.

The motion with which Dr. Chalmers concluded was in the following terms:—"That the general assembly, having maturely weighed and considered the various overtures now before them, do find and declare, that it is, and has been ever since the reformation, a fixed principle in the law of this church, that no minister shall be intruded into any pastoral charge contrary to the will of the congregation: and considering that doubts and misapprehensions have existed on this important subject, whereby the just and salutary operation of the said principle has been impeded, and in many cases defeated, the general assembly further declare it to be their opinion, that the dissent of a majority of the male heads of families, resident within the parish, being members of the congregation and in communion with the church, at least two years previous to the day of moderation (of the call), whether such dissent shall be expressed with or without the assignment of reasons, ought to be of conclusive effect in setting aside the presentee (under the patron's nomination), save and except where it is clearly established by the patron, presentee, or any of the minority, that the said dissent is founded in corrupt and malicious combination, or not truly founded on any objection personal to the presentee in regard to his ministerial gifts and qualifications, either in general or with reference to that particular parish: and in order that this declaration may be carried into full

Takes the form of a declaratory law.

1833. effect, that a committee shall be appointed to prepare the best measure for carrying it into effect, and to report to the next general assembly."

Such was the measure, to destroy which it was not thought too great a sacrifice to rend church and state asunder. Posterity will probably wonder that so great a price should have been paid to achieve so questionable a triumph: and failing to find in the measure itself anything to justify the reckless opposition which at length succeeded in burying it beneath the ruins of the church's spiritual freedom, will be tempted to exclaim,

Posterity will wonder that to defeat such a law, Church and State in Scotland should have been rent asunder.

Tantaene animis cœlestibus irae!

The Rev. Dr. George Cook, professor of moral philosophy in the university of St. Andrews, the able and dexterous leader of the moderate party in the general assembly, rose to reply. The point, and the only one in reference to which he objected to the motion of Dr. Chalmers, was the giving effect to the dissent of the congregation without the assignation of reasons. He admitted "that patronage in Scotland had never been an unconditional right,—that it could be exercised only in favour of a particular description of persons; and that it had always belonged *to the church to determine whether the election by the patron had been properly made.*" He admitted, moreover, "that the power of church courts in this matter had been *for many years practically narrowed*, and that it came to be held that, in general, when there was no deficiency of literature, or conduct, or doctrine, a presentee was entitled to be admitted, whatever other objections might have been made to him." "But," continued Dr. Cook, "there was no rescinding of the ancient law upon the subject—that remained as it had ever been; and to it, it was quite competent for the general assembly to return, for regulating the conduct of presbyteries

Speech of the Rev. Dr. Cook.

Admits that the moderate party had narrowed the power of the Church courts.

CHAP. V.

as to the presentation and induction of ministers." His view of what that unrescinded law sanctioned and required was this—that the presbytery should "afford to the heads of families in a vacant parish an opportunity of stating whatever objections to the presentee they might think it proper to urge. These, with the reasons on which they were founded, the presbytery, in the exercise of its legitimate power, would consider; and its sentence with regard to them, if no appeal be taken (that is, to a higher church court), would become final." Let the reader, in connection with these important admissions, mark the statement with which they were wound up. "In this way," said Dr. Cook—that is, by recurring to and enforcing, as he had recommended and explained, the unrescinded law—"the people would acquire all the check upon the settlement of a minister which, even *during the abolition of patronage*, they ever possessed,—and they would do so from the operation of what had always been the law of the church." In other words, Dr. Cook's statement involved precisely the same conclusion which has been contended for in the earlier part of this work,—that the restoration of patronage by the act of Queen Anne had not taken away, or even touched, either the sole and final jurisdiction of the church courts in the examination and admission of ministers on the one hand, or the right to approve or disapprove which belonged to the congregation on the other,—such as that right had existed under the act 1690 and under the act 1649. This brings the single point in dispute between Dr. Cook and Dr. Chalmers within very narrow limits. Obviously, if it can be made out that, in the principle of the veto law, there was nothing substantially at variance with the "check" upon the settlement of a minister which the people possessed "during the abolition of patronage," Dr. Cook's reasoning is at an end.

1833.

The right of the people to state objections of "*whatever nature*," against the presentee.

Dr. Cook assumes that the *people* had the same place and power under existing law—as "during the abolition of patronage."

Difference between Dr. Chalmers and Dr. Cook reduced to a single point, and that related to a question of fact.

1833. "But let me now," said Lord Moncrieff, speaking in the course of the debate on this very point, "request attention to the act of assembly, 1649, which is on all hands admitted to be a part of the law of the church in that part of it which is here material. So far as it placed the right of *nomination* in the kirk session, it is of course superseded by the acts restoring patronage,—by the act 1690, and by the act of Queen Anne. But in the other parts of it, it is admitted to be still of authority. It directs, that after the session on intimation by commissioners of the presbytery have agreed to the person to be proposed to the people, and this is intimated,—if the people 'acquiesce and consent to the said person, then the *matter* being reported to the presbytery,' &c., they shall proceed to the trials of the presentee, and if he be found qualified, admit him to the ministry. Then it proceeds:—'But if it happens that the *major part* of the congregation dissent from the person agreed upon by the session, in that case the matter shall be brought into the presbytery, who shall judge of *the same*, and if they do *not* find their dissent to be grounded on *causeless prejudices*, they are to appoint a *new election* in manner above specified.' The full force of this enactment," continued Lord Moncrieff, "cannot be estimated without taking along with it the clause which follows as to a different case, and attending to the contrast between them; for the act goes on:—'But if a *lesser part* of the *session* or *congregation* show their *dissent* from the election *without exceptions* RELEVANT *and* VERIFIED *to the presbytery*, notwithstanding thereof the presbytery shall *go on* to the trial and ordination of the person elected.' Compare," said his lordship, "these two provisions together, and see whether there be any doubt, that the *first* supposed that the *dissent* of the *major part* of the congregation was to be alone conclusive, without the statement or verification of special reasons of objection, unless it were proved to

Speech of Lord Moncrieff.

His lordship's exposition of the Act 1649, —as affording a clear precedent for the veto.

CHAP. V. proceed on causeless prejudice: while in the *second*, a 1833.
minority dissenting were required *to state* and *to verify* relevant objections, objections that is to the life, or doctrine, or specifically to the personal qualifications of the presentee. The contrast is too pointed not to have been made by design: and it is to me evident that there would have been no sense in the separation of the two cases, if it had not been intended to make a distinction between them, precisely in the point of requiring reasons to be stated in the case of the minority; but holding the dissent of the majority to be conclusive, unless a case of causeless prejudice were proved against them. It has been said that the act bears that the *matter* is to be taken to the presbytery, who are to judge of the same, and that this must mean that they are to judge of *the reasons to be assigned.* This could not be the meaning, otherwise the distinction would have been unnecessary. But it is plain that '*the matter*' here mentioned, means *the fact* of the *dissent* of the *majority*—in the same manner as '*the matter*' is to be taken to the presbytery by the previous clause, where the people *acquiesce* in the election of the presentee. But why make so pointed a change of expression if nothing more was meant in the one than in the other? In both cases, the subject was to go to the presbytery: and the only difference is that in the case of the *majority* dissenting, the election was to be *set aside, unless* causeless prejudice were proved, and in the other it was to be *sustained* unless objections *relevant* and *verified* were laid before the presbytery. I therefore think that the first motion on the table is essentially the same in principle with the act 1649."

The Justice Clerk Boyle's speech: his lordship's view of the Act 1649.

The lord justice clerk (Boyle), who followed Lord Moncrieff in the debate, "took his stand on the law of the church, and even as it was contained in the act 1649." He dissented indeed from the interpretation of that act which

1833. Lord Moncrieff had given, and contended that the distinction which it made between the dissent of the *major* and the dissent of the *minor* part of the congregation amounted to no more than this, that while the dissenting majority were entitled to have an opportunity of stating and proving their objections at a subsequent meeting, the dissenting minority were bound to do this on the spot or not at all. The simple and sufficient answer to this construction is, that it proceeds on a mistake. At the moderation of a call it is not necessary, in order to sist procedure, that a dissenting *minority* shall make good the relevancy and the truth of their objections on the spot. The only stage of a settlement at which so summary a demand is made upon objectors is on the day of induction. If failing to take advantage of any of the preceding steps in the process of a minister's settlement to bring their objections forward, they reserve them till the eleventh hour, it is nothing more than a fair protection to the presentee to insist that both the relevancy and the truth of their objections shall be made out *there* and *then*. And this accordingly is, and has always been, the express law of the church; but it never was the law of the church that such a demand should be made upon objectors at the moderation of a call, nor is there anything whatever sanctioning that demand in the act 1649. The whole argument, therefore, of the lord justice clerk, in so far as that act is concerned, was founded upon an assumption which is altogether groundless; and his lordship's theory being consequently inadmissible, the simple common sense reading of the act given by Lord Moncrieff remains untouched and entire.

Evident mistake on which the JusticeClerk proceeds.

The admission already noticed, as made by Dr. Cook, and acquiesced in for the first time by all the subsequent speakers on the moderate side of the house, was too important to pass unnoticed by their opponents. "I must

CHAP. V. express," said the Rev. William Cunningham,* "my delight 1833.
with the great concession which Dr. Cook has this day made, and which was approved by the Reverend Principal on your right hand (Macfarlan), viz., that the presbyteries of this church, in the exercise of their undoubted right to judge of the qualifications of a presentee, are to take into account, not merely his moral and literary qualifications, his fitness to be minister of the gospel in general, but also his special qualifications for being minister of the particular parish to which he has been presented. This principle has been often denied in theory; it has been almost wholly overlooked in practice. Principal Macfarlan, indeed, was pleased to say that he did not know that it had been overlooked in practice. This, sir, is a very strange assertion. [Here Principal Macfarlan interrupted the speaker and said, that he did not know, or at least, that he did not remember having said so, but that he had said that he would inquire.] Mr. C. in continuation said, Moderator, this explanation does not mend the matter, for men are not in the habit of inquiring into those things which they know already. Now sir, short as my life has been, and small as my knowledge is, in comparison with that of the Rev. Principal, I know, and I here assert, that the principle now conceded has been overlooked in practice,—nay more, that this very principle formed the main subject of controversy in the grand struggle between the two parties in the church during the latter half of the last century, and that the result of that struggle was, that the principle of the presbytery having no right to judge of a man's special fitness to be minister of the particular parish to which he was presented—except in one or two points of a physical kind—was established by the

The admission of Dr. Cook taken hold of by the Rev. William Cunningham.

Dr. Cook and his friends to be held as now condemning the policy of their predecessors.

* Now the Rev. Dr. Cunningham, principal and professor of church history in the new college, Edinburgh.

1833. votes of a decided majority of this house, and was constantly acted upon. I rejoice, sir, that by the concession this day made, that decision has been reversed, and that the great principle so strenuously but so ineffectually contended for by our predecessors on this side of the house, is now universally admitted. And upon the ground of this concession I must take the liberty of declaring, that the majority of this house who, in that great struggle, succeeded in enforcing the principle that has this day been disclaimed, were thereby trampling upon the ecclesiastical rights and privileges of the Scottish nation, and that while all the time they pretended that the law of patronage left them no alternative and allowed them no further discretion, it now appears, by the concession of their friends and successors, that they were just laying upon the law of patronage a responsibility and a guilt that were all their own." Keeping in view the concessions which drew forth this just and withering rebuke, the question in debate as between the two parties in the assembly was well put by Mr. Bell, the procurator for the church. It was now admitted on all hands, that fitness or *meetness* for the particular parish to which the presentee might be nominated, was one of the qualifications which the presbytery were entitled and bound to require that he should be found to possess. Now, said Mr. Bell, "the true and only point in question between us, when stripped of its adventitious circumstances, relates to nothing more nor less than the way in which this individual fitness or *meetness* for a particular parish shall be proved in the church courts." Dr. Cook and his friends sought, by their motion, to have it done by a judicial process, according to which the congregation must prove the presentee's want of meetness to the satisfaction of the presbytery. Dr. Chalmers and his supporters, by their motion, wished to have it declared once for all by the veto law, that the dissent of a majority should

The light in which Dr. Cook's admission presents the past conduct of the moderate party.

The speech of Mr. Bell, procurator for the Church.

CHAP. V. constitute the proof required and be conclusive of want of meetness on the part of the presentee. Dr. Cook's method might have done well enough had the principle involved in the call been this,—that "no pastor shall be intruded on any congregation contrary to the *will of the presbytery.*" But seeing that the principle to which the call was designed to give effect, the principle of non-intrusion, had respect not to the will of the presbytery but to "the will of the people," the motion of Dr. Chalmers, like the act of assembly 1649, and which was also the church's directory under the statute of 1690, was simply a test by which the state of the congregational *will* might be fairly and honestly ascertained. 1833

Dr. Cook's plan prevents intrusion against the will of the presbytery: that of Dr. Chalmers, against the will of the people.

Several things which came out in the course of this important debate, will be found worthy of being remembered at a later stage in the progress of this history. Dr. Cook, and the lord justice clerk, the ecclesiastical and the legal authorities of the moderate party, were at one with the evangelical side of the house, in holding that other things besides "life, doctrine, and literature," entered into the question of a minister's fitness for a cure of souls. Dr. Cook's motion recognized the competency of the people to urge, and of the presbytery to sustain objections, of "*whatever nature*, against the presentee, or against the settlement taking place." No such latitude of objection, however, was recognized six years afterwards, when the veto law came to be reviewed in the house of lords. The construction of the law of patronage, on which the decision of their lordships turned, would have been as fatal to the legality of Dr. Cook's regulations as to those of Dr. Chalmers,—a fact which, when the heats of controversy shall have passed away, will probably suggest, to most men, grave suspicions that the disruption was due neither to the innovations, nor to the obstinacy, of the general assembly, but to a blunder of the supreme civil court.

Dr. Cook, the Lord Justice Clerk, &c., go greatly beyond the views on which the Auchterarder case was decided in the courts of law.

Reasons furnished by this debate for attributing the disruption to a blunder of the civil courts.

1833. Another thing hardly less memorable in the debate of 1833, was the fact that the finality, as to all spiritual effects, of the church's jurisdiction in everything touching the examination and admission of ministers, was held to be indisputable. A great deal was no doubt said by Dr. Cook and others about the motion of Dr. Chalmers being *ultra vires* of the assembly,—and that the passing of it into a law would lead to a collision with the civil courts. The speaker who was most dogmatic upon this point was Mr. Whigham, the late sheriff of Perthshire. But to show what was the kind and extent of the only collision he and his friends contemplated, a few sentences from his speech will suffice. "Mark then," said Mr. Whigham, "the effect which the adoption of Dr. Chalmers' motion must necessarily produce upon the rights of patrons, and the direct and painful collision which its adoption must necessarily give rise to! The presbytery are bound, *if the presentee be qualified*, to admit him. IF THEY DON'T, THE FRUITS OF THE BENEFICE ARE WITHHELD." And again, after expatiating still further on the obligation under which he held the church courts to be laid by civil statutes to adjudicate upon the qualifications of the presentee, and after again affirming that the veto law was incompatible with the fulfilment of that obligation, he returned to the subject of a collision with the civil courts. "These statutes, I have already said, the judicatories of the church must obey. If they do not, THE FRUITS OF THE BENEFICE ARE WITHHELD, and a collision, more painful in its nature, and injurious to the best interests *of the people themselves*, than any consequences which result from the law as it stands and as it has been administered, must be the necessary consequence." In other words, the bringing into operation of the provision contained in the statute of 1592, and which Lord Kames, in his Law Tracts, had signalized as the only check which

The extremest legalists of the moderate party in 1833, held sound views of the jurisdiction of the Church. Mr. Whigham's speech.

The loss of the Benefice was the only effect anticipated by Mr. Whigham, as likely to result from the veto law being disallowed by the civil courts.

CHAP. V. the civil courts could interpose, when dissatisfied with the decisions of the church in connection with the law of patronage,—this Mr. Whigham, and the entire moderate party along with him, manifestly believed, in 1833, to be the only result to which a collision with the civil courts about the veto law could possibly give rise. That, in addition to withholding "the fruits of the benefice," the courts of law could annul the spiritual sentences of the church, and that the church courts, contrary to their own sense of duty, could be compelled, by civil pains and penalties, to perform spiritual functions at the bidding of the courts of law,—was an imagination that had not at that time dawned upon the mind even of that Coryphæus of erastianism, Mr. Hope himself. This fact, too, is significant,—and will tell upon an impartial posterity. 1833.

When at length the debate had been concluded, and the vote had been taken on the opposing motions, the balance of numbers was found to be still on the side of moderatism. For the motion of Dr. Chalmers there voted 137—for the amendment of Dr. Cook 149. By this narrow majority of twelve, the triumph of non-intrusion was postponed for another year. "Another such victory and we are lost," said Charles XII., when by a hair's-breadth he had beaten the Russians at Narva. The debate of 1833 made it abundantly manifest that the dominion of moderatism was passing away. Its success on this occasion was tantamount to a defeat, for it was secured at the expense of a confession, that for a century it had been trampling on the constitution of the church, and tyrannizing over the rights and privileges of its members. Dr. Cook's motion recorded that sentence of condemnation against the policy of his own friends.

The motion of Dr. Chalmers rejected by a small majority.

Dr. Cook's success tantamount to a defeat.

Another discussion took place in the same assembly, which tended still further to indicate the decline and ap-

1833. proaching fall of the party that had been so long dominant in the church. It was on the question of chapels of ease. As this question enters largely into the disruption controversy, it is necessary at this point to furnish the reader with some necessary information. Previous to the union between Scotland and England, effected by the famous treaty of 1707, the division of overgrown parishes and the erection of additional churches was carried on through the medium of commissioners of teinds (tithes), who held their authority from the Scottish parliament. When the union took place, the jurisdiction which had belonged to these commissioners was transferred to the court of session, which was empowered by statute to act as a "court of teinds and plantation of kirks." This transference was made, however, with an important limitation as to the circumstances in which alone the court of teinds could interpose. By the act erecting this court, it was prohibited from entertaining any process for the erection of a new parish, and the imposition of the consequent burdens connected with church, stipend, school, &c., unless with the consent and concurrence, previously obtained, of heritors possessing at least *three-fourths* of the valued rent of the parish. As might have been anticipated, and as was probably intended, this notable specimen of class-legislation operated as a most effectual bar to the multiplication of parishes and parochial institutions. It virtually locked up the unexhausted teinds, —the reserved fund which the law of the land had destined for the extension of the church,—and put the key, as well as the fund itself, into the pockets of the heritors. Armed with this formidable power, the selfishness of the heritors proved greatly an over-match for the zeal of the church-extensionists. With her feet made fast in the stocks of this obstructive enactment, the church made little progress in the way of overtaking the spiritual wants of a continually

The question of chapels of ease.

At the Union, the court of session erected into a "court of teinds and plantation of kirks."

The obstructions which the law placed in the way of the extension of the National Church.

CHAP. V. increasing population. Access to the resources which right- 1833.
fully belonged to her as an establishment, being thus made all but impossible, the only other means that remained of adding to the number of her ministers and places of worship was to be found in the private liberality of her members. Not indeed that the church in her corporate capacity was, during last century, at all active in this cause; the secular spirit and oppressive policy of moderatism, were not well calculated to cultivate among the people a desire for the ordinances of the national church. In the face of these discouragements, however, chapels of ease were now and then erected in some of the more populous parishes. These chapels found no favour with the then prevailing party in the church; originating, as they chiefly did, among those who valued religious ordinances and were willing to make pecuniary sacrifices to maintain them, they were commonly filled with an evangelical ministry. For being free from the yoke of patronage, their congregations had it in their power to indulge their own evangelical tastes. This, indeed, was the circumstance of all others that rendered them so peculiarly obnoxious to the ruling party in the church. They were the nurseries of all those principles to which that party was most fiercely opposed. They were looked upon accordingly to a large extent, and especially during the palmy days of triumphant moderatism, as so many enemies in the camp—dissenting institutions within the pale of the establishment. Instead of facilities being afforded for the multiplication of these chapels, the most vexatious obstructions were continually thrown in their way. It needed much management in many cases to get the assembly to license them, or, as it was usually expressed, to grant them constitutions. The difficulties they encountered were indeed often so great that, harassed and worn out, and disgusted by such treatment, the friends of the intended chapel with-

Origin of chapels of ease.

Discouragements thrown in their way by the moderate Assemblies.

1833. drew, in more cases than one, from the establishment altogether, and connected both their chapel and themselves with some dissenting communion. There are places of worship at this moment in the hands of those who now represent the relief and secession churches, whose connection with these bodies was notoriously and exclusively attributable to the cause now described. It was a part of this suicidal policy, to lower as much as possible the ecclesiastical status and influence of the ministers of these chapels of ease. They were not allowed to exercise discipline over their own flocks, or to take their seats in any of the church courts. In other words, they were permitted to teach, but not to rule. That fundamental principle of presbyterianism, the parity of all ministers, was flagrantly violated by stripping chapel of ease ministers of one half of the powers of their office. To ground all this on the mere fact, that these ministers were not beneficed clergymen like their brethren who had stipends provided out of the parish teinds or other public funds, was only an after-thought brought in to bolster up a foregone conclusion. Not only was there nothing in the constitution or practice of the church to sanction the gross idea, that the right of her ministers to exercise the full powers of their sacred office depended upon a sentence of the court of teinds, but there was everything in her practice and constitution to prove the contrary. "Pastors, bishops, or ministers," says the second book of discipline, "are they who are appointed to particular congregations, which they rule by the word of God, and over the which they watch. In respect whereof sometimes they are called *pastors*, because they feed their congregation; sometimes *episcopi* or *bishops*, because they watch over their flock; sometimes *ministers*, by reason of their service and office; and sometimes also *presbyters* or *seniors*, for the gravity in manners which they ought to have in taking care of the

Disabilities of the chapel ministers.

No countenance given by the standards of the Church to the distinction made between endowed and unendowed ministers.

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spiritual government which ought to be most dear unto them." Here there is no distinction between beneficed and unbeneficed, endowed and unendowed ministers. Whoever is "appointed to a particular congregation," is declared, in virtue of that spiritual appointment, to be entitled and bound to rule as well as to teach his flock. And as for the practice of the church, until after the middle of the eighteenth century, when moderatism had already risen into power, not one solitary instance can be pointed out, in which an ordained minister holding a cure of souls within the national church, had ever been excluded either from the right to rule his own flock, or from a place in the higher courts of the church, on the ground of his having no legal benefice, and no civil parish attached to his spiritual cure. It is well-known, indeed, that from 1560 to 1567, the ministers of the reformed presbyterian church of Scotland were without benefices altogether, and had no other support save that which their congregations, or private friends of the reformed cause, supplied. And although after the last-named year, provision was appointed to be made for the ministry out of what were called the "thirds of benefices,"—one third of the old popish revenues being nominally set apart for the reformed church,—it is abundantly notorious that the scanty pittance which this arrangement furnished, many ministers never obtained. Again, at the period of the revolution, when the outed ministers were restored, it is well known that a large number of the benefices were retained by those *quondam* episcopal ministers who now conformed to the presbyterian establishment. In these circumstances, there must have been not a few of the restored ministers who could have neither a parochial benefice nor a parochial cure. But no distinction was ever heard of, as having been made on this account, between them and their brethren in what belonged to the spiritual functions and privileges of their

1833.

The practice of the Church in harmony with its principles, till moderatism had become dominant.

The facts of history on this point.

1833. office, as ordained ministers of the church of Scotland. Moreover, although chapels of ease, properly so called, did not begin to come into existence till after the middle of last century, there were then, and there had always been, chapelries or private foundations which had no proper benefices attached to them, and with which the court of teinds and plantation of kirks had never had anything whatever to do. One of these was a chapel at Foot of Dee, which was not erected into a parish church till so recently as the year 1828; and yet the ministers of that chapel, from 1720 till 1782, had a seat in the general assembly. In defiance, however, of all these considerations, both of fact and law, dominant moderatism denied to the ministers of chapels of ease the ruling powers of their office, both in their own congregations and in the superior courts of the church. Crippled and degraded by these offensive and injurious restrictions, chapels of ease had neither multiplied as otherwise they might have done, nor had they been in circumstances to confer, upon the localities to which they belonged, that amount of benefit which a more enlightened and a more constitutional policy would have enabled them to impart. In the course of the hundred years which preceded 1833, the population of Scotland had been doubled; and to meet the religious wants of this additional million of inhabitants, the whole amount of provision which had been made in connection with the established church was limited to forty churches, erected under a special act of parliament, and sixty-two chapels of ease. It is a striking evidence of the urgent need which existed for a more ample provision, that during the century in question, about five hundred places of worship had been erected outside the pale of the national church. Nothing but the oppressive and mischievous policy which had been pursued under the ascendency of moderatism, in regard to chapels of ease, had hindered

The ministers of the chapel at Foot of Dee, sat in the Assembly from 1720 to 1782

During the century preceding 1833, the population of Scotland had doubled, while only sixty-two chapels and forty churches had been added to the Establishment.

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private liberality from doing within the establishment what it had been doing among the seceders. The time was now more than come for having that hinderance withdrawn. In the vigorous efforts that were making to overthrow the church establishment, it was impossible for the blindest not to see the danger of having allowed the population to run so far a-head of that limited provision for their religious instruction, which the national church supplied. With its high-handed patronage in the parish churches, on the one hand, and its unconstitutional and degrading treatment of the chapels of ease, on the other, it had been fast losing its title to the name of a *national* church. To repair these evils, it was not more necessary to revive the principle of non-intrusion than it was to put an end to those pernicious restrictions which had operated so powerfully in keeping down the number, and impairing the usefulness of chapels of ease. If the one measure was demanded by the necessity that lay upon the church, of strengthening her stakes, the other was not less demanded by the equal necessity of lengthening her cords. Thus rooted once more in the esteem and attachment of the people, and bringing the long-neglected *outfield* of her more unwieldy parishes within the range of her ministrations, she would have nothing to fear. Pursuing such a course of constitutional reformation and practical efficiency, it was no presumption to hope that her ways might please God, and that He would make even her enemies to be at peace with her. 1833

The Church in danger of losing its title to the name of *National:* and the consequent necessity of removing the disabilities of chapel ministers.

Under the influence of views like these, many synods and presbyteries of the church had sent up overtures to the assembly of 1833, praying that chapels of ease might be placed on a more favourable footing, and that their ministers might be relieved from their existing disabilities. The chapel ministers themselves, not being represented in the house, craved to be heard by counsel, at the bar of the

Overtures to the Assembly of 1833, on the subject of chapels of ease.

1833. assembly, in support of their claims. The motion made by Dr. Cook, to refuse this most reasonable request, was negatived by a majority of twenty—a significant hint that the wand of the moderate leader's power was all but broken. The counsel, whose mouth this decision opened, was Mr. Alexander Dunlop, a gentleman whose name will often occur in the sequel of this history. It has been one of the marked distinctions of the church of Scotland, to have enjoyed, in most of her great struggles, the services of eminent lawyers: men who had studied her constitution and history with all the accuracy, and yet with none of the prejudices of their profession. Among these, there are, perhaps, few or none to whom posterity will assign a higher or more honourable place than to the individual now named. None, however, save those who were themselves called to take an active share in guiding the church through all the perils and perplexities of the ten years' conflict, can fully understand how much of the dignity and consistency of the church's course was due to him.

The chapel ministers heard by their counsel, Mr. Dunlop, at the bar of the Assembly.

Mr. Dunlop's able and luminous address from the bar was followed by a singularly animated discussion in the house. Dr. Brown, professor of Greek in the university of Aberdeen, moved that the chapel of ease ministers "ought to be admitted to enjoy all the privileges of the regular clergy of the established church." Dr. Cook stood upon the opposite, or old moderate tack; at the same time, as was his wont when debates became critical, framing his motion so as to lie as near as possible to what appeared to be the prevailing wind. It professed to take "a deep interest in whatever could promote more effectually the spiritual instruction of the people, and increase the comfort of ministers of chapels of ease;" and hesitated to grant the prayer of the petitioners, only because "doubtful" of the assembly's power. On the subject of this doubtfulness,

Motion in favour of the chapel ministers by Professor Brown, and the amendment of Dr. Cook.

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whether without the intervention of a civil court the church could allow her ministers to exercise the spiritual functions of their office, it was well asked by a subsequent speaker, "what it was the state gave a right to? Not," said he, "to the pastoral office—that was from the Lord Jesus Christ, the only Head of the church. The office of a pastor was purely spiritual, and was conferred by the church on those whom it thought qualified. That was the doctrine of the church of Scotland for which our fathers suffered unto death, and the civil power, in sanctioning the church of Scotland, had sanctioned this very view."* This statement is neither less important nor less true, because ten years later, when the day of trial came, it seemed too much to its author to risk the headship of a provincial college for a cause to which other men had given their lives. So much easier is it to eulogize than to imitate self-denial. 1833.

Speech of the Rev. Dr. Daniel Dewar.

As the debate proceeded, Dr. Cook found it expedient to bring his motion a point closer to the wind still, by dropping out altogether the clause expressive of doubt as to the power of the church, and agreeing "to approve of the overtures, and appoint a committee to consider by what means their objects may be most effectually and extensively carried into execution." By this contrivance he saved, and no more than saved, himself from a second defeat; for when the division came, it assigned him a majority of four.

Dr. Cook alters his amendment and with difficulty carries it.

In this manner did the coming events of 1834 cast their shadows before them in 1833. Our next chapter introduces us to the first assembly of the ten years' war.

* Speech of Rev. Dr. Dewar, *Christian Instructor* for June, 1833. Dr. Dewar adheres to the establishment, and is principal of one of the colleges at Aberdeen.

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THE ASSEMBLY OF 1834.—THE VETO LAW AND THE CHAPEL ACT.

1834. THE assembly of 1834 will long be memorable in the annals of the church of Scotland. Those who disapprove of the measures by the adoption of which that assembly was signalized may, perhaps, think of it only as the commencement of that disastrous decade of anxiety and agitation which terminated in the disruption. While those on the other hand, who recognize in these measures, the breaking forth again into life of the old reformation principles, which the founders of the church had laid deep in its constitution, and with which all that is best and noblest in its history is inseparably associated, will ever regard the assembly in which these principles reappeared as being worthy of all honour, not only for its own sake, but still more for having led the way in one of the most illustrious conflicts for the spirituality and the liberty of the church of Christ, of which any record can be found either in modern or in ancient times. The issues, indeed, that were destined to arise out of the movements then begun, were, perhaps, as little foreseen by the party that opposed as by that which promoted them. Had it been otherwise, it is hard to say whether the course of both might not have been different. If to have known beforehand the trials and difficulties, the losses and privations to which the steps they were about to take in vindicating great scriptural and constitutional principles of their church, would ultimately lead—if this knowledge might have thinned the ranks of the majority—it is surely a supposition, at least as charitable and not more extravagant that, had the minority foreseen how, through their agency, the power of

The Assembly of 1834 will be a memorable epoch in the history of the Scottish Church.

Neither of the two parties in that Assembly foresaw the issue of the conflict then begun.

CHAP. VI. patrons and of the courts of law was to triumph, at the 1834. expense of trampling under foot the independence of the courts of the church, their minority would have been smaller still. But while God places before us the rule of duty, he keeps often and wisely the consequences connected with it altogether out of our sight; and thus it is, that even amid all the errors and infirmities of men, He works out unerringly, and to their full accomplishment, His own glorious designs. What His design was in the case of the momentous struggle which commenced in the assembly of 1834 is, perhaps, even now, only beginning to be disclosed. Already, however, enough has transpired to show that the lesson is not for us, or for Scotland alone, but for all the churches and nations of the earth. The constitution of the church of Christ, and its relation to the civil power, is the very question of questions which is now struggling for solution in the mind of this pregnant age. And when the great truth concerning it, embodied in a great fact, shall at length be born into the world—when kings shall be found kissing Christ's sceptre in token of their subjection to His power, and when churches shall be found rendering unto Cæsar only the things that are Cæsar's; but reserving for God all those things that are God's—when church and state shall no longer be the synonyme either for a spiritual despotism, such as the Roman antichrist long usurped over kings, or for an erastian tyranny, such as in their turn kings have exercised over the churches of the reformation—when each shall recognize the other as an independent ordinance of God—the state honouring Christ in the church, and the church honouring God in the state,—when this glorious consummation shall at length be realized, it will, perhaps, appear, that of the light which guided men towards it, some of the brightest rays emanated from that eventful controversy, whose opening scenes are about to be laid before us.

Our duty is placed before us: while the consequences of doing it are often and wisely hidden from us.

The bearing of the ten years' conflict on the ultimate adjustment of the relations of Church and State.

1834. It was plainly impossible that matters should continue long in the state in which they were left by the assembly of 1833. The all but success which had then attended the efforts of the reforming party, could not fail to ensure an early repetition of the struggle. Everything, accordingly, that occurred both within and without the church in the course of the succeeding twelvemonths was indicative of the coming conflict. The opponents of the establishment were everywhere forming their "voluntary societies,"—and by means of itinerant lecturers, addresses at public meetings, pamphlets, tracts, and newspapers, labouring with incessant activity to imbue the public mind with their own peculiar views. Their money argument against church establishments made, at least in Scotland, comparatively little impression. Not only were the incomes of the clergy moderate in amount, but being derived, except in the large towns, from the landed property of the country, the holders of which, with few exceptions, were friendly to the establishment, the mass of the people were unconscious of any burden; and, indeed, so quietly had the system worked, that they hardly knew how the ministers were paid. And even in the case of the large towns, where the stipends of the established clergy were levied from the funds of the corporation, or other local revenues, the pew rents of the established churches, which the corporation levied in return, and appropriated to the public use, were for the most part a full equivalent. To speak, therefore, of the cost to the community of the church establishment, and especially in those days, when at least two-thirds of the entire population of the country belonged to it, was to use language which had little force. But there was another argument much more fitted to tell—and that not merely on those who dissented from the establishment, or who cared nothing for religion or its institutions—but on the best and most intelligent of the

The balance of parties in the Assembly of 1833, ensured an early repetition of the efforts for reformation.

The voluntary Church controversy.

The money argument had little effect in Scotland.

CHAP. VI. adherents of the establishment themselves. The argument 1834
in question was that which was derived from the notorious fact, that except in Scotland, every national church in christendom was enslaved to the civil power. It was, of course, quite possible by fair reasoning to show that the gross erastianism which the church and state system thus almost everywhere exhibited, was not necessarily involved in that system; and that it was contrary to all the rules of sound logic to convert the abuse of a principle into a ground for denying its right and legitimate use. But still, every one knows it is by things in the concrete, and not by things in the abstract, that the public mind is chiefly governed. When certain things are always seen in conjunction, the inference is too plausible not to convince, at least, the multitude, that there is some natural and inseparable bond of union between them. A fact, in such cases, is worth a thousand apologies and explanations. And one such fact the most earnest, enlightened, and withal successful advocates of church establishments, were too happy to be able to adduce as furnished by the national established church of Scotland. Here, said they to their opponents, is that very institution which you describe as an impossibility,—a church supported by the state, and yet in all matters spiritual, free from state control! Those views of its ratified liberties as a church establishment which are given in an earlier part of this work, and the heroic contendings there briefly sketched in defence of these liberties, were the very weapons with which, in 1833, and the years immediately following, the battle of church establishments was chiefly fought. Weapons of which, as wielded in his London lectures, by the illustrious Chalmers, even the powerful church of England was not unwilling to secure and to enjoy the benefit.

The strongest argument of the voluntaries was founded on the subjection of the Established Churches to the civil power.

The spiritual freedom of the Church of Scotland supplied the best answer to that argument.

The argument, however, which the actual independence

1834. in matters spiritual of the church of Scotland, supplied, potent as it was, had yet in it something like a vitiating flaw so long as the church did not put forth her power to vindicate, from the encroachments of lay patronage, the spiritual rights of her congregations. If a patron could compel the church courts to thrust his obnoxious presentee upon a reclaiming parish, it would not be easy to show wherein this differed from the erastian subjection of the church to the civil power. Church courts had indeed, in cases innumerable, as the preceding narrative has told, committed this outrage, but they had done it out of their own spontaneous and infatuated zeal for patronage and contempt of the congregation's voice. Dr. Cook's motion of 1833 distinctly proved that moderatism had not then sunk so low in its views of the church's prerogatives, nor learned to be so tame and abject in its submission in matters undeniably ecclesiastical to the encroachments of the civil power, as to allow that the intrusions perpetrated under the management of his predecessors in the leadership of the moderate party were necessitated by the terms of the church's compact with the state. At the same time until, in the calling and settlement of ministers, in the enfranchisement of her ministers of chapels of ease, and in other matters of a similar kind, the church did actually put in force those spiritual powers which she held to belong to her, not only *in foro Dei* as a church of Christ, but *in foro Regis* as a national establishment, the argument in favour of church establishments derived from her spiritual independence was deprived of half its power.

This argument marred by the concessions made to the patron.

The assertion of the Church's power in the reformation of existing abuses, the only way effectually to prove the existence of her spiritual freedom.

There can be no question that considerations of this kind did most naturally and most properly stimulate the reforming party in the church to redouble their efforts in preparing for the assembly of 1834. It was at one of the public meetings, held by the anti-patronage section of that party

CHAP. VI. in Edinburgh, in December, 1833, that Dr. M'Crie took 1834.

Dr. M'Crie's speech against half measures.

occasion to deprecate, in strong terms, the taking of any course in the general assembly which did not include a petition to parliament for the immediate and total abolition of patronage. The fears which, in the preceding assembly Dr. Chalmers had too much countenanced, as to the evils that might arise from leaving the election of ministers in the hands of the congregations, he treated as altogether visionary.

Ridicules the dread of popular election, which certain members of the reforming party indulged.

"But the people—the people," he exclaimed, in that tone of quiet satire which he knew so well how to use, "if we expel the patrons, the people will rush in like air into a vacuum, and raise such a storm, tempest, hurricane, as will root up and scatter everything precious and venerable in our church. Good friends," said the reverend doctor, "be not so much alarmed—the period of ecclesiastical agitation is past—the popular current is changed—the current has turned from religion to politics—and although you should join the anti-patronage society, you could not bring it back to its old channel. Instead of rushing in, the people have been rushing out from you. You have told them that it is a delusion to think that the christian people have an inherent right to choose their own minister; but to pacify them, you have added, that every man has the right of choosing what minister he shall hear,—and they have learned the lesson. The time may come," he continued, "when you will need all the assistance the people can give—when you will be fain to stimulate, instead of stifling their voice—and to ask their suffrages, instead of telling them that they are incapable of anything but dumb and dogged resistance without the assignment of a reason." This fling at what he accounted the half measure of the veto, was appropriate enough from the historian of Knox and Melville. And yet the event showed, that even that measure, and others with which it was accompanied, had a power, when introduced and

His fling at the veto.

1834. administered by a really evangelical and reforming assembly, to "bring back the popular current to its old channel" unspeakably greater than Dr. M'Crie supposed.

Circumstances in which the Assembly of 1834 met.

It was in the midst of the excitement connected with these ecclesiastical questions and controversies, that the supreme court of the established church of Scotland met, in 1834. This court, called the general assembly, is a representative body. It is made up of ministers and elders, elected for this purpose annually by the several presbyteries, —and of one elder from each of the royal burghs and universities. The ministers chosen to sit in the assembly, must themselves belong to the same presbytery which sends them; but, in the case of the elders, this, though usual, is not imperative. The number of commissioners chosen by each presbytery, bears a certain proportion to the number of its own members. The proportion of ministers to elders, delegated by the different constituencies now named, is about five to four; and, at the period now under consideration, the total number of members returned to the assembly, amounted to about three hundred and fifty.

The General Assembly's place of meeting.

For many generations previous to 1834, the assembly had held its meetings under the roof of St. Giles' church, in a part of that venerable structure which, from the use to which it was devoted, was commonly designated the "assembly aisle." In times when travelling difficulties hindered many of the members belonging to the remoter districts of the country from taking their seats, and when under the chilling auspices of moderatism, the assembly had few attractions for the public; the "aisle," limited as its amount of accommodation was, had been sufficiently large. But the times were changed. The revived evangelism of the church, imparting as it did a growing earnestness and energy to its whole administration, had given to the assembly an interest altogether new. For all who concerned themselves about

The "Assembly Aisle," though small, had been large enough for the times of moderatism.

CHAP. VI. the church's welfare, the annual meeting of the assembly had become the great ecclesiastical event of the year. And, moreover, as the two parties in it became more nearly balanced, in point of numbers, every single vote acquired additional importance, and the attendance of members was in consequence greatly increased. For these reasons, application had been made some time before to the government, either to provide another place of meeting, or to enlarge the existing one. The latter of these two proposals had been acquiesced in, and actually carried into effect, in connection with certain extensive changes that were then in the course of being made upon the whole building to which the aisle belonged. The assembly, however, had scarcely taken possession, in 1833, of the more spacious and beautiful place of meeting, into which the old narrow and dingy aisle had been transformed, when the discovery was made, that however pleasing to the eye, the place was totally unfit for use. Its lofty gothic roof, and graceful transept, rendered hearing impossible, unless every member who had a few words to say, had ascended a pulpit to deliver them. The sittings of that assembly were accordingly at once adjourned to one of the adjoining churches. It is a somewhat singular circumstance, that during the ten years that followed—the years of the disruption conflict—the general assembly never had a place of meeting of its own. The church of the reformation was about to be driven from the walls of the establishment; and the journeyings to and fro of her assembly during the struggle which preceded that event, passing from one temporary place of meeting to another, were in keeping with the loosening process by which she was at length prepared, like her suffering Master, "to go forth without the camp, bearing His reproach."

1834.

The "Aisle" greatly enlarged and beautified in 1833.

Found to be altogether unsuited for the purposes of our Assembly.

The Assembly had no "certain dwelling place" during all the ten years' conflict.

The assembly of 1834 met in the Tron Church of Edinburgh. Several things occurred at the very commencement

1834. of its sittings that were pleasingly indicative of the change which had for some years been becoming more and more manifest in the religious tone and spirit of the majority of its members. On the very day on which it convened, George Buchan, Esq. of Kelloe, a country gentleman of great piety and worth, called the attention of the house to certain violations of the sanctity of the Lord's day which occurred at the annual meetings of their assembly. He alluded to the practice of her majesty's commissioner to the assembly going in procession to church, attended by the military, as an exhibition which served only to crowd the streets with the idle and the thoughtless, and to disturb that sacred rest by which the Sabbath in Scotland was otherwise ordinarily and honourably characterized. Dr. Cook, Principal M'Farlan, and other members of the moderate party, discouraged and opposed Mr. Buchan's motion to refer the matter to a committee. The feeling of the house, however, was too strong and decided to give way, and it was at length unanimously agreed to instruct the moderator to request a conference with his grace the commissioner upon the subject. To the representations which were made in consequence, the commissioner at once deferred. Already indeed as the result of a previous communication from the committee of the assembly on Sabbath observance, he had, with the express concurrence of his royal master, the king, discontinued his public levees and dinners on the Lord's day, and from that time the military fanfaronade of the procession to church was also laid entirely aside. In itself the incident may appear inconsiderable, but it was a sign of the times. It could not have occurred in the anti-missionary assembly of 1796.

The Assembly of 1834 met in the Tron Church.

The Assembly's care for the sanctity of the Sabbath.

The Commissioners' public levees and dinners on the Lord's day given up: and also the processions to Church.

The suggestion of Mr. Buchan had hardly been disposed of, when another kindred proposition was made, which though at once assented to, would have sounded very strangely half a century before. It was brought forward

CHAP. VI. by the late Rev. Dr. Hamilton of Strathblane, a man 1834
equally distinguished for piety and learning, and was to this effect, that in consideration of the momentous character of the business that was about to come before the assembly, more time than usual should be given at the diet of the following day for earnest and special prayer. By immemorial usage, the day after that on which the assembly convened had always been dedicated to devotional exercises; and those who are old enough to remember the assemblies of thirty or forty years ago, will not need to be told how brief and how cold these exercises were, and how scanty the attendance of members on such occasions was wont to be. It was one of the sure tokens that the movement for ecclesiastical reformation, now so strong and vigorous, had its root and spring in a revived evangelical spirit, that the devotions of the assembly had become to a large body of its members as attractive as its discussions.

The devotional spirit of the Assembly.

Debate on the Veto-law.

It was on Tuesday the 27th of May, that the measure commonly called the Veto-law, was introduced and carried. Dr. Chalmers was not a member of that assembly, and the task was, in consequence, devolved upon Lord Moncrieff, of proposing the motion and leading the discussion of that eventful day. Nor would it have been easy to find one better qualified in all respects for this important duty. Himself the son of the former leader of the evangelical party, and not more distinguished for his hereditary attachment to the presbyterian church of Scotland, than for his profound acquaintance with her constitution and history, his position, character, and acquirements, all equally pointed him out as the fittest individual that could have been selected.

The measure proposed by Lord Moncrieff.

His lordship's speech.

"I may fairly own," said his lordship, when he stood up in the midst of profound silence to address the house, "that I rise to offer myself before you with feelings of fear and reluctance. I think this will be an important day in the

1834. history of the church, and whether I be right or wrong in the views which I have taken upon this subject, I most sincerely wish that the duty of bringing before you the motion which I have to propose, had fallen into other hands. I cannot but remember the manner in which this subject was presented to you in the last general assembly, by a man sufficient to adorn the annals of any age or church, and whilst I remember the magnificent speech of my reverend friend, surely it must impress me with some considerable awe in now venturing before you. We live in times when it becomes every man to surrender himself with all humility to the duties to which the situation he is in, may call him. In last assembly I had the honour of seconding the motion of my reverend father, and, in these circumstances, I could not have declined to undertake this motion; and we do propose this day to make another effort, so far as any effort upon our part may, under the blessing of the great Head of the church, avail to stem the force of excitement and agitation which many of us think has been greatly increased by the rejection of this motion in two former assemblies."* Such was the calm, dignified, and solemn strain in which that measure was introduced, that was destined to become the occasion of one of the greatest ecclesiastical convulsions of modern times. Having justified from the standards, laws, and history of the church, the assertion contained in the preamble of his motion, viz., that it is "a fundamental law of this church, that no pastor shall be intruded on any congregation contrary to the will of the people," and having traced the progress of that iniquitous and oppressive policy by which that fundamental law had been so long and so systematically violated, his lordship proceeded thus: "We have come thus far, that an evil was introduced. The next

The non-intrusion principle proved to be in harmony with the standards and laws of the Church.

* *Report of the Proceedings of the General Assembly*, 1834.

CHAP. VI. thing to be asked is, how shall that evil be remedied? If it is to be remedied, are you to take up special cases with all the peculiar interests that constantly surround them? Are you to take up special cases and consider only particular objections? What hope can we then have that the evil shall ever be remedied? When we see the course which the thing took under the auspices of the great men of the last age, what hope have we that it will be more favourable in our own time? We must take a far more decided step, we must take our standing upon the existing laws of the state and of the church. I want no more than what is contained in the act 1690, qualified as it is by the act of Queen Anne, and the laws of the church by which that act is ordered to be carried into effect. The act 1690 gave the election to the elders and heritors being protestants. But did it rest there? No. It goes on to assert the powers of the church in a material point, ordaining that the heritors and elders are to propose the person to the congregation, and if they disapprove of him, the reasons are to be given in to the presbytery, by whose determination the collation of the minister is to be completed. The act of Queen Anne in 1712, repeals this act only so far as relates to the presentation of the minister by the elders and heritors; it alters nothing as to the manner in which the individual is to be presented to the congregation, and it is still in force on this point. Was it not recognized by the act of assembly 1736 and 1782? and is it not recognized in the constant practice of our presbyteries sending the individual to the congregation to preach before them?" His lordship subsequently referred to the assembly's directory of 1649, as the known guide of the procedure of the church courts under the act 1690,—as the existing ecclesiastical law even under the act of Queen Anne, acknowledged to be such by Dr. Cook and the moderate party generally in the debate of 1833; and as

1834.

Objections to the mode of restoring it to efficiency by decisions pronounced in individual cases.

Lord Moncrieff proposes to go back to the old law of the Church.

1834. furnishing a clear authority for the adoption of the veto. In reference to the alleged hardship to the presentee, of being shut out from a parish by the mere dissent of the congregation, a point on which the opponents of the veto had laid great stress in the discussions of the year before, Lord Moncrieff took the most favourable case for their argument, the case of a really worthy person suffering under this right of exclusion, and met it in these striking terms:—"Either," said his lordship, "the people are right and there is some defect in the individual, and thus our sympathy should be with the people and not with the individual who is rejected; or the individual is a worthy man, of good gifts and qualifications, of pure and upright principles; and then, I appeal to the assembly if it can be really said to be an injury to the man that he is thus prevented from entering into a parish situated as we suppose; for I come back to the man of pure and upright heart and honest intentions, who desires to minister in the church for the benefit of those under him, and for the glory of God; and I ask whether such a man, introduced into the parish against the wish of the people, can be said to enjoy a benefit, or to have suffered an injury, in being thrust upon the people? A deserted church,—desolation in his heart,—the meeting-houses rising around him,—sabbath after sabbath treading his way to the church door, and there finding none whom he can spiritually edify; returning to his home meditating upon the condition into which he has been brought, and the total abuse and frustration of his powers,—his learning a burthen,—his talents utterly useless, because he has not been placed in a sphere where he might employ them." There are probably many ministers in the establishment, at this moment, who could tell, from an intimate experience, whether the picture which Lord Moncrieff so graphically sketched in 1834, has not turned out to be most painfully just and true. The motion

His lordship's answer to the objection, that under the veto a really worthy presentee may be rejected.

CHAP. VI. 1834.

Lord Moncrieff's motion.

with which his lordship concluded was in these words:— "That the general assembly having maturely considered the overtures, do declare that it is a fundamental law of this church, that no pastor shall be intruded on any congregation contrary to the will of the people; and that in order to carry this principle into full effect, the presbyteries of the church shall be instructed, that if at the moderating in of a call to a vacant pastoral charge, the major part of the male heads of families, members of the vacant congregation, and in full communion with the church, shall disapprove of the person in whose favour the call is proposed to be moderated in, such disapproval shall be deemed sufficient ground for the presbytery rejecting such person, and that he shall be rejected accordingly, and due notice thereof forthwith given to all concerned; but that if the major part of the said heads of families shall not disapprove of such person to be their pastor, the presbytery shall proceed with the settlement according to the rules of the church; and further declare, that no person shall be held to be entitled to disapprove, as aforesaid, who shall refuse, if required, solemnly to declare in presence of the presbytery, that he is actuated by no factious or malicious motive, but solely by a conscientious regard to the spiritual interests of himself or the congregation: and resolve that a committee be appointed to report to an interim diet of the assembly, in what manner, and by what particular measures, this declaration and instruction may be best carried into full operation." A great deal was attempted to be made some years afterwards, by a certain learned person,* of the alleged inconsistency between this motion of Lord Moncrieff, and that submitted by Dr. Chalmers to the assembly of the year before. "The truth is," said Dr. Chalmers, commenting on Mr. Hope's ground-

Difference, alleged by Mr. Hope, to exist between the motion of 1833 and that of 1834.

* Mr. Hope (now lord justice clerk) in his *Letter to the Lord Chancellor*, &c., &c. Edinburgh, 1839.

1834. less allegation, "that the rejection by the people, and on grounds which they are not called upon to state or indicate, is just as absolute by the motion of 1833, as by that of 1834; and the only difference between the two years is, that the security required by the church for the moral honesty of the dissent was different, and in the latter year, instead of appearing in the body of the motion, had a place assigned to it among the supplementary regulations for carrying the motion into effect."*

The opposition to the veto led by the Rev. Dr. Mearns.

The opposition to the reforming movement was this year headed by the Rev. Dr. Mearns, professor of divinity in the university of Aberdeen. No fewer than three other clerical speakers from the same county followed him on the same side. Certain districts would seem to have their indigenous opinions, just as they have their indigenous plants. When Dr. M'Crie was in the act of asserting, in a well-known pamphlet which appeared some months before, that "none will appear as the advocates of patronage, or deny that it is a grievance," the recollection of the ecclesiastics of Aberdeenshire came suddenly across his mind, and immediately he qualified the sentence that had dropped from his pen. "When I say none, I have not lost sight of certain divines in the distance, who, by the help of their *northern lights,* contrive to see everything in a position the reverse of that in which they appear to other men: who would persuade the people, that what they believe to be a burden too heavy to bear, is, in reality, as light as the web of the gossamer; and remind us of the lordly Peter, in the Tale of a Tub, who called the brothers 'a couple of blind, positive, ignorant, wilful puppies,' because they would not believe that a dry crust, which he put into their hands, was a glass of

The hereditary moderatism of Aberdeenshire.

Dr. M'Crie's letter on that subject.

* *Remarks, &c., &c., occasioned by the publication of a Letter to the Lord Chancellor by the Dean of Faculty,* by Thomas Chalmers, D.D. Glasgow, 1839. P. 13.

CHAP. VI. claret, and some slices, which he cut from a loaf, to be as 1834.
'true, good, natural mutton as any in Leadenhall market.'
They have been nursed in the same school, have breathed the same air, and imbibed the same spirit with their predecessors, the *doctors of Aberdeen* in the seventeenth century, who, when all Scotland were rejoicing in the recovered liberties of the presbyterian church, made their cloistered walls resound with their plaint, and vowed to live and die under the shade of regal and prelatic despotism."* That old stock was not extinct, and furnished, as has been noticed, a large proportion of the speakers who took part in the assembly of 1834 in withstanding the proposed limitation of their favourite law of patronage. The opposition of Dr. Mearns, calm and clear, like his own thoroughly argumentative intellect, was rested almost exclusively upon one single ground. "This motion," he said, "was a giving up to the people of the power of judging. It was a transfer of the right of collation." The right of collation he held to be "a great principle, early vindicated and maintained by the church, implying an entire power to grant admission, to extrude, to fix qualifications in the abstract, and to examine into the possession of these qualifications by every individual nominee, including also the right of induction." He admitted that, under this right of collation belonging to the church, there was included "the right on the part of the congregation to be consulted, to have the nomination intimated, and opportunity afforded them to express their consent or dissent; such reasons to be judged of by the ecclesiastical court." But he contended that the motion of Lord Moncrieff amounted "to a transfer of the essential right of the church to judge of all qualifications, and the giving to the people a co-ordinate voice and authority in this matter, which was at variance

Speech of Rev. Dr. Mearns: declares the veto to be a transfer of the right of collation from the Presbyteries to the people

* *What ought the General Assembly to do at the Present Crisis?* Edinburgh, 1833. Pp. 8, 9.

1834. with the whole system." Apart from the question of expediency, this argument constituted the main strength of the opposition. Dr. Cook recurred to it again and again. "Nothing could be more manifest," said he, "than that the meaning of the statute was, that the judging of the qualification was not with the people, but that, when a person was presented by the patron, the ecclesiastical courts were to proceed to consider the qualification: that the judgment of the inferior (church) court might be carried to the superior, and that the final settlement of the matter lay with the general assembly. Of the opinion of the people as to this, not the slightest mention is made. But what is the motion of my honourable friend? It sweeps all this away,—it wrests from presbyteries all control or judgment in the matter,—it renders them purely ministerial: and where a majority of the people, without assigning the slightest cause for it, disapprove the presentee, let the sentiments of the presbytery with respect to him be what they may,—let them be ever so fully satisfied that he would be a conscientious and zealous minister,—they must reject the presentation and prevent his admission. Is not this in direct opposition to the law which has been quoted?"

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Dr. Cook repeats the objection of Dr. Mearns.

However plausible such considerations at first sight may appear, they admit of a very simple and conclusive answer. In the first place, it is abundantly obvious that they proceed upon a total disregard of the principle, so emphatically laid down in the standards and laws of the church, that "no pastor shall be intruded upon any congregation, contrary to the will of the people." As Lord Moncrieff, in his speech at the close of the debate, observed, "when some gentlemen tell us that intrusion is used with different significations, what is that to the purpose, when the words are, '*against the will of the people.*' The declarations of the books of discipline," continued his lordship, "are familiar to all, and

The objection plausible but groundless.

Lord Moncrieff's answer to it.

CHAP. VI. too plain to be set aside. If more is wanted, the act 1736 1834.
not merely declares the same thing, but is made for the very purpose of declaring that this was a fundamental law of the church, and this is quite clear of all gloss they may put upon it. I therefore hold myself to stand firm on the broad base of that law. I wonder not at the attempts to evade it, as it constitutes the source of all the question, both in principle, and power, and law." It is not possible for any subtlety or ingenuity to get over this. The "will of the people" can never with any show of reason be explained to mean, "the will of the presbytery." The expression is too plain and precise to admit of any such mystification. And therefore, to blame the veto-law for requiring that the dissent of the congregation shall be accepted by presbyteries as decisive, in all ordinary cases, against their proceeding with the settlement,—is simply to find fault with their being required to give effect to a fundamental law of the church.

Admissions of the moderate party.

But further, it was admitted by the opponents of the veto-law; *first*, that it belongs to the church courts to decide finally and conclusively on the whole subject of the qualifications of ministers,—not merely on their qualifications for the ministry in general, but on their qualifications for the ministry in the particular congregations to which they may be nominated. And *second*, that in giving judgment upon this latter question, the church courts are bound to have before them the mind of the particular congregation concerned. It will be remembered, that the motion of Dr. Cook, made and carried in the assembly of 1833, explicitly asserted these views, and appointed a committee to prepare a report as to the way in which they might best and most effectually be put in force. It was now, accordingly, the

The counter motion of Dr. Mearns.

adoption of that committee's report which Dr. Mearns put as the counter motion to Lord Moncrieff's. In that report,

1834. which will be found below,* there is, *first*, the doctrine laid down in the preamble, "that in all cases in which a person is presented to a vacant parish, it is by the law of the church, sanctioned by the law of the land, competent for the heads

Preamble of the regulations proposed by Dr. Mearns.

* "The general assembly declare that in all cases in which a person is presented to a vacant parish, it is by the law of the church, sanctioned by the law of the land, competent for the heads of families, in full and regular communion with the church, to give in to the presbytery, within the bounds of which the parish lies, objections of whatever nature against the presentee, or against the settlement taking place; that the presbytery shall deliberately consider these objections, and that if they find them unfounded or originating from causeless prejudices, they shall proceed to the settlement; but if they judge that they are well founded, that they reject the presentation, the presentee being unqualified; it being competent to the parties to appeal from the sentence pronounced, if they shall see cause."

The appended regulations for working this law, as suggested by Dr. Cook's committee of 1833, and approved by the motion of Dr. Mearns in 1844, were as follows:—

I. The law of patronage remaining as at present, presentations to vacant parishes must be given in to presbyteries before the expiration of six months from the vacancy taking place.

II. When presbyteries have received a presentation from the undoubted patron, they shall appoint the person nominated to preach, as soon as they may judge convenient, in the church to which he has been presented.

III. After he has so done, the presbytery, or a committee thereof, due notice having been previously given, shall meet at the vacant church, when, divine service having been performed by the presiding minister, intimation shall be made to the congregation of the nomination of the presentee, that they may have an opportunity of expressing their wish cordially to receive him: and it shall at the same be intimated that if any one or more of the heads of families, in regular communion with the church, shall have objection to the settlement of the person by the patron, it shall be competent for them, by themselves or by an agent properly authorized, to state their objections, of whatever nature, to the next meeting of presbytery.

IV. If the objections thus stated affect the moral character or the doctrine of the presentee, so that, if they were established, he would be deprived of his license or of his situation in the church, the objectors shall, as is the case at present, proceed by libel, and the presbytery shall take the steps usual in such cases.

V. If the objections relate merely to the insufficiency or unfitness of the presentee for the particular charge to which he has been appointed, the objectors shall not be required to become libellers, but shall simply deliver in writing their specific grounds for objecting to the settlement, and shall have full liberty to substantiate the same: upon all of which the presentee shall have an opportunity to be fully heard, and shall have all competent means of defence. The presbytery shall then consider

CHAP. VI. of families in full and regular communion with the church, 1834
to give in to the presbytery, within the bounds of which the parish lies, objections of *whatever nature* against the presentee, or against the settlement taking place." And *next*, in the appended regulations, for giving effect to this right of the congregation, it is provided, that "if the presbytery shall be satisfied that the objector or objectors have established that the presentee is not fitted, usefully and sufficiently, to discharge the pastoral duties in that parish, then they shall find that he is not qualified, and shall intimate the same to the patron, that he may present forthwith another person." Now it will not be disputed, that according to this motion of Dr. Mearns it would be competent for the congregation to state *this* as their objection to the presentee, that having heard him preach, and having otherwise made good and sufficient inquiry concerning him, they found him not suited to edify their souls. The question must thereupon fairly and necessarily arise, whether, upon the supposition of the people solemnly and deliberately adhering to this their declared conviction, that circumstance would not contain, in and of itself, a due and sufficient disqualification, such as to require that the presentee should be set aside? It could not surely be said to be anything extravagant or unreasonable, if the presby-

Argument for the veto founded on the regulations of Dr. Mearns.

these grounds; and if it shall appear that the opposition originates in causeless prejudices, no adequate reason being adduced for it, they shall proceed to the settlement of the presentee, according to the rules of the church. But if the presbytery shall be satisfied that the objector or objectors have established that the presentee is not fitted usefully and sufficiently to discharge the pastoral duties in that parish, that they shall find that he is not qualified, and shall intimate the same to the patron, that he may forthwith present another person: it being always in the power of the different parties to appeal from the sentence pronounced by the presbytery, if they shall see cause.

VI. In the event of a settlement not proceeding, provided there has been no valid objection to the doctrine and moral character of the person declared unqualified, his rejection shall be no bar to his receiving a presentation to a different parish, and to his being settled in that parish, if no sufficient objection shall be made to him by those having the privilege of objecting.

1834. tery should decide that the presentee was not "fitted usefully and sufficiently to discharge the pastoral duties in that parish," when the congregation were solemnly protesting against his settlement, on the ground that he could not edify their souls. Even though they did not concur in the opinion of the congregation,—even though they might have a more favourable view of the gifts for edification, which the presentee seemed to possess; this could not alter the fact, that it was not the presbytery's, but the people's spiritual interests that were at stake in the settlement. And that, therefore, to disregard their convictions in the matter, and to thrust the presentee upon them notwithstanding, would not only be in itself a great and grievous outrage on their religious feelings, but would inevitably raise up such a barrier in the way of his usefulness, as must destroy all reasonable hope of his doing any good among them. If the principles laid down in the motion of the moderate party, did not make it competent for the presbytery to arrive at such a conclusion, and to decide accordingly, they were utterly worthless, and involved as great a mockery of the rights of the presbytery as of the rights of the people. But on the other hand, if these principles did sanction such a judgment as the one above described, in any given case, the whole argument against the veto-law, as a "transfer of the right of collation," to the people,—as "a giving up to the people the power of judging," falls at once and entirely to the ground. For what does the veto-law do? It simply declares beforehand, that what is thus admitted to be a sufficient disqualification in a given case, shall be held to be an actual disqualification in every case. And if the assembly could sanction upon appeal, the grounds on which the presbytery in the case supposed, had found the presentee disqualified, it is a mere abuse of words to say, that it was unconstitutional to do by a general rule applicable to all cases, what it

The regulations of Dr. Mearns either mocked the people with a shadow,—or they overthrew his own argument against the veto-law.

CHAP. VI. was quite constitutional to do in each particular case as it arose. 1834.

A summary of the argument in support of the veto-law.

The whole argument upon the point may be briefly stated thus. The patron is bound to present a qualified minister. It belongs to the church to say who is, and who is not qualified. It is the law of the church, as admitted in the motion of the moderate party, that the members of the congregation to which a minister is presented, are entitled to be heard on the question of his qualification, and that it is competent for them to state objections of whatever nature against the presentee, or against his settlement taking place. Under this process, the very thing to be ascertained is this, Has the presentee gifts to edify the congregation? Evidence must be taken upon the point. The veto-law lays down a specific mode of taking that evidence. It rules that the deliberate dissent of a majority of the congregation shall be conclusive of the fact, that the presentee "is not fitted usefully and sufficiently to discharge the pastoral duties in that parish." And having established this rule, it directs presbyteries to follow it. And where is there in all this any surrender of the church's right of judging, any transfer to the people of the church's power of collation? She is bound to judge of the qualifications of ministers, and to exercise her power of collating them to their charges, "according to the discipline of the kirk." The veto-law contained her solemn decision as to what her discipline in these matters required.

It simply lays down a general rule once for all.

The competency of the Church to enact the veto-law.

On such grounds as these, the competency of the church to adopt the veto-law was capable of the fullest justification, even had there been no exact precedent for that method of proceeding in the calling and settlement of ministers which it established. That whole matter was in its own nature, and according to the ratified constitution of the church, a proper subject of ecclesiastical regulation. It was a matter within her own province, and in legislating upon it, she

1834 stood no more in need of a precedent to authorize her to determine that the dissent of the majority of the congregation should disqualify the presentee, than she stood in need of a precedent to determine that every presentee should be held as disqualified, who had not passed through a certain curriculum of study in literature and philosophy, and at the divinity hall. But the church had a precedent for the veto-law. She had not only what might be called a constructive precedent, in those numberless decisions of former times in which presentees had been set aside in consequence of the opposition of the congregations to which they had been nominated, but she had a direct and formal precedent, *first* in the very terms of her ancient non-intrusion principle, and next in the directory of 1649. It will be remembered that in attempting to explain away the precedent furnished by that directory, the lord justice clerk (Boyle) in the assembly of 1833 had recourse to a somewhat singular, and as was shown, totally inadmissible interpretation. According to his lordship's theory, the distinction made by the directory between the privilege of the *major part*, and the privilege of the *lesser part*, of the congregation, amounted to no more than this; that while the lesser, if they tendered their dissent, must "there and then" verify their objections, the *major part* were entitled, when they dissented, "to say to the presbytery, *Sist procedure for the present, and we will prove to you at your next meeting, or after sufficient time for getting evidence, that we have good and substantial reasons for our objection.*" This distinction of the learned lord, as is known to every one acquainted with the subject, is a pure fancy. As his lordship spoke last in that debate, there was no opportunity of exposing his error. In the debate of 1834, not only did his lordship not repeat it, but as if conscious of its being utterly untenable, Dr. Cook endeavoured to substitute for it another of his own, and one which, though

Precedents for the law.

The construction put on the Act 1649 by the Lord JusticeClerk (Boyle), in the Assembly of 1833, not repeated in 1834.

CHAP. VI. quite new, was no better than the lord justice clerk's. "If 1834

Dr. Cook's construction of the Act 1649. it so happen," says the directory of 1649, "that the *major part* of the congregation dissent from the person agreed upon by the session (the session standing then in room of the patron), in that case the matter shall be brought into the presbytery, who shall judge of the same; and if they do not find their dissent to be grounded on causeless prejudices, they are to appoint a new election in manner above specified. But," and here lay the point of that distinction which so embarrassed the opponents of the veto-law, "if a *lesser part* of the session or congregation show their dissent from the election *without exceptions relevant and verified*, notwithstanding thereof the presbytery shall go on to the trials and ordination of the person elected, yet all possible diligence and tenderness must be used to bring all persons to an harmonious agreement." Those who insist that the dissent of the majority is not enough of itself, according to these provisions of the directory 1649, to bar the settlement, unless it be supported by reasons satisfactory to the presbytery, are bound to meet and answer this question: Why were reasons required to be given in support of their dissent by the *lesser part* of the congregation, while no mention is made of such reasons as being required to support the dissent of the majority? No doubt the presbytery were to judge in both cases, but the point submitted to their judgment in the one case, was altogether different from the point submitted to them in the other. In the case of a dissent by a *majority*, it was simply the *bona fides* of that dissent with which they had to deal. In the case of the dissent by a *minority*, it was the *bona ratio* of that dissent of which they were entitled to be satisfied. But no, said Dr. Cook in the debate of 1834, that is not the way of it. When the minority dissented under the directory of 1649, "there is no doubt the parties in that case were required to verify their charges.

1834. But the inference has been drawn from the distinction that in the first case (when the majority dissented) there were no reasons required, because if there had, there was no need for that distinction. He (Dr. Cook) said he could not see the slightest foundation for this inference, or that there was not the greatest propriety in giving a facility to the majority which was denied to the minority, *in so far that the presbytery in the one instance investigated for themselves the proof, in the other they required this to be done by the dissenters!*" No wonder that after offering this notable solution of the difficulty, Dr. Cook should have followed it up with the somewhat significant expression, "But be this as it may." He had evidently no confidence in it himself, and it was not to be expected the assembly could have any. The supposition which it makes is not only wholly gratuitous, but altogether absurd. Instead of a facility or a privilege being offered to the *major part* of the congregation, Dr. Cook's theory would make the directory of 1649 put them in a worse position than that in which it put a dissenting minority. The only effect of taking the investigation out of the hands of the dissentient majority, would have been to put a facility and a privilege into the hands of the presbytery, a facility, viz. for quashing the dissent, and a privilege, as at least moderate presbyteries were wont to account it, of intruding the minister against the will of the people!

Dr. Cook evidently had no confidence in the correctness of his own interpretation.

This important debate, which began at eleven o'clock in the forenoon, was at length concluded at eleven at night, when Lord Moncrieff's motion was carried by a majority of 184 to 138. Of the clerical members of the house, 95 voted for the motion, and 86 against it; of the presbytery elders, 42 for, and 38 against it; of the burgh elders, 43 for, and only 7 against it. From this analysis, it is evident that the success of the motion was not due to the preponderating influence or numbers of any one class; but resulted from

The division: Lord Moncrieff's motion carried by 184 to 138.

CHAP. VI. convictions which predominated in all the classes of which the assembly is composed. If that predominance was by much the greatest in the case of the burgh elders, the fact serves only to show how popular this reforming movement was throughout the body of the church at large. Of all the members returned to the general assembly, the burgh elders were undoubtedly those upon whom, what might be called the public mind of the church, and even of the general community, most directly told. And the circumstance that their votes were given in the proportion of 43 to 7 in favour of the veto-law, is conclusive evidence that what was done in the assembly was in harmony with the views and feelings of the people. 1834.

Lord Moncrieff brings up the report of the committee.

At a subsequent diet of the assembly, Saturday, 31st May, Lord Moncrieff brought up the report of the committee appointed, under his motion, to prepare regulations to be observed for the future in the calling of ministers throughout the bounds of the church. On this occasion the house was called to determine whether the resolution of the assembly upon the subject of calls and non-intrusion must be subjected to the provisions of the barrier act. The act in question, as its name implies, is designed to protect the church from rash and sudden alterations and innovations upon its constitution: and for this purpose it requires that no new law shall be established without the express consent and concurrence of a majority of the presbyteries. As an *interim* act, a new law may be enforced for a year by a vote of the assembly, but it must at the same time be transmitted to presbyteries for their opinion, and only when a majority of these have decided in its favour does it take its place among the standing laws of the church. But the difficulty in agreeing to apply the barrier act to the case in hand lay here, that to do so might seem at least to imply that it was a new law which the assembly was about to

The Barrier Act: its object and provisions.

Discussion of the question whether the Veto-law required to be subjected to the provisions of the Barrier Act.

1834. introduce, instead of being, as its supporters held it to be, an old and fundamental law of the church. The precedent of the act prohibiting the non-residence of ministers was urged in favour of sending down the veto-law to presbyteries: non-residence was held to be contrary to the constitution of the church, and yet the act upon that subject adopted by the assembly in 1814 was afterwards, in 1816, subjected to the judgment of the presbyteries. "Had it not been," said Lord Moncrieff, "for the procedure of the assembly in 1816, and the respect he entertained for the memory of the person who took a prominent share on that day, he would have been more clearly of opinion than he now was, that in point of constitutional principle there was nothing to prevent the house from passing this act without transmitting it to presbyteries." Upon the whole his lordship thought it best "to recommend to those who had supported the resolution of Tuesday last, to agree in transmitting the resolution to presbyteries. He proposed this in deference to the doubts of many, and in order that that act might not be exposed at each successive year to be challenged by overtures, but might be established, ratified, and confirmed, by the full consent of the presbyteries of the church." The motion which he accordingly proposed was in the following terms: "That the assembly firmly adhering to the principle laid down in the report, that it is a fundamental law of the church that no pastor shall be intruded into any parish contrary to the will of the people, do yet, in deference to doubts expressed upon the subject, resolve that the said resolution of the assembly be converted into an overture, and transmitted to presbyteries for their approval, and that the same be enacted as an *interim* statute." This concession to the opponents of the measure, made for the sake of peace, would not have been yielded unless the motion had been framed in the guarded terms which Lord Moncrieff employed. "Had

Lord Moncrieff recommends that the point should be yielded on grounds of expediency.

CHAP. VI. 1834.

not the preamble of this motion," observed Mr. Dunlop, "saved them from being held to admit that it was not a clear law of the church, and that it required strength from presbyterial approbation, he would have opposed it, and for this reason only did he consent to it, that the preamble set forth, not that the principle that no man should be intruded, &c., required to be strengthened by transmission to presbyteries, but that it was done in reference to the doubts of some, and as a matter of expediency and courtesy." Dr. Cook opposed the latter part of Lord Moncrieff's motion, by which the veto-law was to be converted into an *interim* act, and moved an amendment accordingly, which, however, he subsequently withdrew, and the original motion was adopted without a vote. The regulations for giving effect to the law were finally adopted on Monday the 2d of June, the last day of the assembly's sittings for the year.*

Mr. Dunlop consents to the recommendation only because the terms of it save the question of principle.

The Veto-law made an *interim* act: Dr. Cook's amendment on this point withdrawn.

Report and regulations regarding the Veto-law.

* The following report and regulations, as adopted by the general assembly, were converted into an *interim* act, and transmitted as an overture to presbyteries for their approval:—

"That the general assembly, having maturely considered the overtures, do declare that it is a fundamental law of this church that no pastor shall be intruded on any congregation contrary to the will of the people; and in order to carry this principle into full effect, the presbyteries of this church shall be instructed, that if, in the moderating in of a call to a vacant pastoral charge, the major part of the male heads of families, members of the vacant congregation and in full communion with the church, shall disapprove of the person in whose favour the call is proposed to be moderated in, such disapproval shall be deemed sufficient ground for the presbytery rejecting such person, and that he shall be rejected accordingly, and due notice thereof forthwith given to all concerned: but that if the major part of the said heads of families shall not disapprove of such person to be their pastor, the presbytery shall proceed with the settlement according to the rules of the church; and further declare that no person shall be held to be entitled to disapprove, as aforesaid, who shall refuse, if required, solemnly to declare, in presence of the presbytery, that he is actuated by no factious or malicious motive, but solely by a regard to the spiritual interests of himself or the congregation; and resolve that a committee be appointed to report to a future diet of this assembly, in what manner and by what particular measures this declaration and instruction may be best carried into full operation.

"Your committee have carefully considered the matter remitted to them by the above deliverance, and also the regulations proposed by the

1834. And thus was consummated that first great step towards the reinforcement of the constitutional privileges of the Christian people, in the calling and settlement of their ministers. When reviewing, in a former chapter, the debate

First step in the work of reformation completed.

committee of last general assembly: and they now beg leave to report their opinion that, in order to carry into full operation both the prefixed resolution and the resolution of last assembly, the following directions ought to be given to the presbyteries of the church:—

"I. That when any presbytery shall have so far sustained a presentation to a parish, as to be prepared to appoint a day for moderating in a call to the person presented, they shall appoint one of their own number to preach in the church of the parish on a day not later than the second Sunday thereafter; that he shall on that day intimate from the pulpit that the person presented will preach in that church on the first convenient Sunday, so as it be not later than the third Sunday after such intimation; and that he shall at the same time intimate that on another, to be fixed not less than eight nor more than ten days after that appointed for the presentee to preach, the presbytery will proceed, within the said church, to moderate in a call to such person to be minister of the said parish in the usual way; but that the presbytery, if they deem it expedient, may appoint the presentee to preach oftener than once, provided that the day for moderating in the call be not more than six weeks after that on which the presentation has been sustained.

"II. That on the day appointed for moderating in the call, the presbytery shall, in the first instance, proceed in the same manner in which they are in use at present to proceed.

"III. That if no special objections and no dissents by a major part of the male heads of families, being members of the congregation and in full communion with the church, according to a list or roll to be made up and regulated in manner hereinafter directed, shall be given in, the presbytery shall proceed to the trials and settlement of the presentee, according to the rules of the church.

"IV. That it shall be competent to any one or more of the heads of families in the parish, in full communion with the church, by themselves, or by an agent duly authorized, to state any special objections to the settlement of the person presented, of whatever nature such objections may be: and that if the objections appear to be deserving of deliberate consideration and investigation, the presbytery shall delay the further proceedings in the settlement till another meeting, to be then appointed, and give notice to all parties concerned then to attend, that they may be heard.

"V. That if the special objections so stated affect the moral character or the doctrine of the presentee, so that, if they were established, he would be deprived of his license or of his situation in the church, the objectors shall proceed by libel, and the presbytery shall take the steps usual in such cases.

"VI. That if the special objections relate to the insufficiency or unfitness of the presentee for the particular charge to which he has been appointed, the objectors shall not be required to become libellers, but

CHAP. VI. of 1833 on the same question, special notice was taken of 1834.
the important fact, that although the competency of the church to pass such a law was disputed by various members of the moderate party, it was only in so far as a legal title

shall simply deliver in writing their specific grounds for objecting to the settlement, and shall have full liberty to substantiate the same: upon all which the presentee shall have an opportunity to be fully heard, and shall have all competent means of defence. That the presbytery shall then consider these special objections, and if it shall appear that they are not sufficient or not well founded, they shall proceed to the settlement of the presentee according to the rules of the church. But if the presbytery shall be satisfied that the objector or objectors have established that the presentee is not fitted, usefully and sufficiently, to discharge the pastoral duties in that parish, then they shall find that he is not qualified, and shall intimate the same to the patron, that he may forthwith present another person: it being always in the power of the different parties to appeal from the sentence pronounced by the presbytery, if they shall see cause.

"VII. That if it shall happen that at the meeting for moderating in the call, dissents are tendered by any of the male heads of families, being members of the congregation and in full communion with the church, their names standing on the roll above referred to, without the assignment of any special objections, such dissents shall either be personally delivered in writing by the person dissenting, or taken down from his oral statement by the moderator or clerk of the presbytery.

"VIII. That if the dissents so lodged do not amount in number to the major part of the persons standing on the roll, and if there be no special objections remaining to be considered, the presbytery shall proceed to the trials and settlement, according to the rules of the church.

"IX. That if it shall appear that dissents have been lodged, by an apparent majority of the persons on said roll, the presbytery shall adjourn the proceedings to another meeting, to be held not less than ten days, nor more than fourteen days thereafter.

"X. That if the presbytery deem it expedient, and the person presented be willing, or if he shall desire so to do, the presbytery shall appoint him to preach to the congregation in the interval.

"XI. That it shall not be competent to receive any dissents without cause assigned, except such as shall be duly given in at the meeting for moderating in the call as above provided; but it shall be competent to any person who may have lodged a dissent at that meeting, to withdraw such dissent at any time before the presbytery shall give in judgment on the effect of the dissent.

"XII. That in case the presbytery shall, at the second meeting appointed, find that the major part of the persons entitled to dissent do not adhere to their dissents, or that there is not truly a majority of such persons on the roll dissenting, they shall sustain the call, and proceed to the trials and settlement.

"XIII. That in case the presbytery shall, at that meeting, find that there is a majority of persons on the roll still dissenting, it shall be

1834. to the benefice was concerned. They thought that the rejection of a presentee, simply on the ground of the dissent of a majority of the congregation, would not destroy his claim to the benefice; that the civil court might so decide;

Limits within which the objection of incompetency was confined in 1834.

competent to the patron or presentee, or to any member of the presbytery, to require all, or any of the persons so dissenting, to appear before the presbytery, or a committee of their number, at a meeting to be appointed to take place within ten days at farthest, at some place within the parish, and there and then to declare in terms of the resolution of the assembly; and if any such person shall fail to appear after notice shall have been duly given to him, or shall refuse to declare in the terms required, the name of such person shall be struck off the list of persons dissenting, and the presbytery shall determine whether there is still a major part dissenting or not, and proceed accordingly.

"XIV. That if the presbytery shall find that there is at last a major part of the persons on the roll dissenting, they shall reject the person presented so far as regards the particular presentation and the occasion of that vacancy in the parish; and shall forthwith direct notice of this, their determination, to be given to the patron, the presentee, and the elders of the parish.

"XV. That if the patron shall give a presentation to another person, within the time limited by law, the proceedings shall again take place in the same manner as above laid down; and so in regard to successive presentations within the time.

"XVI. That if no presentation shall be given within the limited time, to a person from whose settlement a majority on the roll do not dissent, the presbytery shall then present *jure devoluto*.*

"XVII. That cases of presentation by the presbytery, *jure devoluto*, shall not fall under the regulations in this and the relative act of assembly, but shall be proceeded in according to the general laws of the church applicable to such cases; but any person who shall have been previously rejected shall be considered as disqualified to be presented to that parish on the occasion of that vacancy.

"XVIII. That in order to ascertain definitely the persons entitled, at any particular time, to give in dissents, every kirk-session shall be required, within two months after the rising of the present assembly, to make out a list or roll of the male heads of families who are at the date thereof members of the congregation, and also regular communicants, either in that parish or in some other parish of the church, of which, in the latter case, proper evidence shall be produced to the kirk-session.

"XIX. That the roll so made up shall be inserted in the session record, and shall be transmitted to the presbytery; and after being inspected by the presbytery, and countersigned on each page by the moderator, shall be returned to the kirk-session, and form part of its records for the foresaid purposes.

* By the law of patronage it is provided, that unless the patron present a qualified minister, that is, one found to be qualified by the church courts, within six months after the vacancy has occurred, the right of presentation, *pro hac vice*, devolves upon the presbytery.

CHAP. VI. and that, in consequence, it might come to pass that there 1834.
would be, for the time at least, a severance of the benefice from the cure of souls,—the civil court giving the benefice to one, and the church courts giving the spiritual cure to another. The subject had now been a full year before the minds of those who opposed the veto-law; and it is most material to observe, that in the assembly of 1834, not one of the objectors went a single hair's-breadth farther on the question of competency, than the objectors of 1833. In truth, there was but one person who recorded even that objection against the measure. There were "reasons of dissent from the deliverance of the general assembly, relative to calls, on Thursday, 27th May, 1834," given in by Dr. Mearns, and adhered to by the great body of the moderate party, including all its chief members, both lay and clerical, —but, in these reasons of dissent, not a word is said against the competency of the church to legislate as it had done. There were, however, separate reasons given in by an individual who is, perhaps, entitled, by way of eminence, to be

The incompetency in the judgment of Dr. Cook and his friends would affect only the right to the benefice.

The reasons of dissent against the Veto-law of Dr. Mearns and others: in these no charge of incompetency brought against the Veto-law.

"XX. That the said roll shall be revised and re-adjusted immediately after the occasion of dispensing the sacrament (of the Lord's supper) in the parish, which shall have last preceded the 22d of November in each year, and shall be transmitted to the presbytery within the first week of December.

"XXI. That the said list or roll, as last revised immediately before the vacancy in the parish, shall be the only roll for determining the persons entitled to be reckoned in any dissents to be offered in the manner above set forth, against the admission of any presentee to be minister, in the moderating in a call, provided that it shall not be made to appear that they, or any of them, have ceased to be members of the congregation.

"XXII. That the presbyteries of the church shall use their utmost endeavours to bring about harmony and unanimity in congregations, and be at pains to avoid everything which may excite or encourage unreasonable exceptions in the people, against a worthy person that may be proposed to be their minister.

"XXIII. That cases in which the vacancies have taken place before the rising of the present assembly, shall not fall under the operation of the regulations in this and the relative act of assembly, but shall be proceeded in according to the general laws of the church.

"(Signed) JAMES W. MONCRIEFF, *Convener.*"

1834. called the author of the disruption; and among these reasons —*fourteen* in all—there was undoubtedly a prominent place given to the question of competency. But even Mr. Hope, who was the author and sole subscriber of these fourteen reasons, does not pretend that, in virtue of the alleged incompetency of the church to pass the veto-law, the civil court could do more than alienate the benefice. His words are these: "Because I am clearly of opinion, in point of law, that a presentee, though rejected by a majority of the heads of families, yet, there being no judgment of the church courts on his qualifications, will nevertheless be legally, validly, and effectually presented *to the benefice*, and will have a clear right to the stipend and all other rights appertaining thereto." That even Mr. Hope accounted this to be the *ne plus ultra* of the civil court's power in the matter, is conclusive evidence of the fact, that at the period now under consideration, and as will afterwards be shown, for some years later, there was no man connected with the church of Scotland who ever dreamt of such a thing as that the civil courts could annul the spiritual sentences of the church, or compel the church courts to perform spiritual acts under the pains and penalties of civil law. Men's minds,—the minds even of the extremest supporters of moderatism,—had not then learned to admit a doctrine so degrading to their church and to themselves, and so dishonouring to its great Head and Lord.

Mr. Hope the sole dissentient on the score of the incompetency of the law.

Even Mr. Hope limited the effects of the alleged incompetency to the benefice.

The other important measure which signalized the assembly of 1834, was that which is familiarly known by the name of the chapel act. The origin and object of this measure have been already noticed in reviewing the proceedings of the assembly of the year before. After the overtures and petitions upon the subject had been called for in the usual form, certain ministers of chapels of ease were heard in support of them from the bar. One of these ministers, the

The Chapel Act, the other great measure of 1834.

CHAP. VI. Rev. Andrew Gray, then of Woodside chapel, Aberdeen, 1834 stated the case with a fulness of information and a force of argument which left little or nothing to be supplied. "It having been thought desirable," said he, "by many of my brethren, that some of ourselves should appear before you this day, it has fallen to me to act as one of their representatives, and I therefore earnestly hope that you will not think me too bold in advancing to your bar, but will grant me what I very much require, your indulgent consideration. No one denies that the present status of chapel of ease ministers, and the present condition of chapel of ease congregations are altogether anomalous, and at variance with fundamental principles of the constitution of the church. On this point we do not need to dwell for the purpose of removing doubt in regard to it. Happily there are no such doubts. But it is affirmed that in the case of chapels of ease there is a *conflict* of principles. While it is admitted that there is an infringement of important principles in withholding from a pastor the power of ruling, and from a congregation the privilege of what the standards call a *congregational assembly*, that is, a session; it is held also to be an infringement of an important principle to invest a minister with authority, and to give a congregation its appropriate judicatory where there is no endowment. We are said to be attempting to make an innovation upon the fabric of the church of Scotland, which would be essentially opposed to its character and well-being as a religious establishment. All our arguments about the constitution of the church—about the nature of the pastoral office—about the rights of ministers and the rights of the people, are admitted to be forcible, and to be such as cannot be answered; but ever and anon we are met by the intimation, that an unendowed minister, sitting in a presbytery, synod, or general assembly of this national church, would be a novelty preg-

Speech from the bar, of the Rev. Andrew Gray.

The supporters of the Chapel Act accused of innovating upon the constitution of the Church.

1834. nant with danger, and a worse anomaly than any that now exists. CHAP. VI.

"Against the position then that what we ask is something new and unprecedented,—something contrary to the genius of our religious establishment, and therefore incompatible with its welfare,—I beg that the house will allow me to direct my efforts. By means of a short series of historical propositions, I hope to be able, not only to show that it is untenable, but also to show that, instead of advocating, we are opposing a novelty, when we plead for our admission to all pastoral privileges; and that, in addition to the fact, which our opponents admit, that the great constitutional principles relating to the rights of congregations and the functions of the pastoral office are against their views; it is likewise a fact, that they have the practice of this established church against them for nearly two hundred years."

Mr. Gray repels the accusation: and affirms the chapel system to be the true innovation.

The propositions with which Mr. Gray followed up this singularly lucid introduction were five in number, and all of them he substantiated by the clearest and most satisfactory historical evidence. The first of these propositions affirmed that the disjunction of the ruling from the teaching power of the pastoral office, in the case of ordained ministers having particular congregations, and the exclusion of such ministers from church courts on any grounds whatever, were things totally unknown in the church of Scotland for two hundred years after the reformation. "That the indivisibility, if I may so term it, of the pastoral office," observed Mr. Gray, speaking on this point, "had always been religiously acted on, becomes apparent when we advert to what took place in 1751 and 1753. In the former of these years, a reference from the presbytery of Edinburgh came before the assembly, regarding the status of the castle chaplain. Till then he had uniformly been received as a clerical member of presbytery, and had been returned, in his rotation, as a com-

Mr. Gray's five propositions in support of the Chapel Act.

The disjunction of the ruling from the teaching powers of the pastoral office unknown for 200 years after the reformation.

CHAP. VI. missioner to the general assembly. The way in which the reference was disposed of is most noticeable. 'The report of the committee, named on Thursday last, to consider the reference from the presbytery of Edinburgh, for advice with respect to receiving the minister of the castle of Edinburgh as a member of the presbytery, brought in, containing an overture that the assembly *advise the presbytery of Edinburgh to receive and admit Mr. John Johnstone, minister of the castle of Edinburgh, to be a member of the said presbytery:* and the assembly, *not having time to consider the same,* ordered that it be signified to the presbytery of Edinburgh, that a committee of assembly had given their opinion above-mentioned, which the presbytery *may have under their consideration, and follow it or not, as they see cause.*' Can anything show more clearly," continued Mr. Gray, after quoting this minute of the assembly, 1751, "that the proposal to withdraw from an ordained minister the power of ruling, and to refuse him a seat in church courts, was, at this time, a startling novelty, —a thing never before heard of, and for which, in the first instance, the assembly was by no means prepared." The case thus adduced is conclusive as to what the practice of the church, anterior to that period, must have been. Another fact, not less decisive on this point, and to which also Mr. Gray made reference, was the judgment pronounced, in regard to missionary ministers, by the assembly of 1753. That assembly prohibited presbyteries from returning these missionary ministers, or itinerants, as they were called, as members of the general assembly: a prohibition which it could never have been necessary to issue had not the practice of the church been strongly in favour of sanctioning the right of all ordained ministers to rule as well as to teach. The very circumstance that presbyteries had been carrying this right so far as to concede it even to a class of ministers who had no fixed pastoral charge, proves to demonstration

1834

Report of the committee of Assembly in 1751 in the case of the chaplain of Edinburgh castle.

The judgment of the Assembly 1753 regarding missionary ministers.

1834. that, in the case of ministers settled in "particular congregations," the right of sitting in church courts had, up till that time, been regarded as a matter of course. The other propositions which Mr. Gray laid down and established, embraced such points as these:—That the church of Scotland was established before it was endowed, and hence, that the possession of an endowment could not possibly have been regarded by the founders of the church, and the framers of its constitution, as essential in order to entitle a minister to exercise all the functions and enjoy all the rights of his sacred office.—That the church did, long after the reformation, settle ministers whose stipends were provided and secured precisely in the same way as those of the ministers of modern chapels of ease, and that no difference whatever was made between these ministers and those having public parochial benefices, in regard to sitting in church courts, and taking part in the government of the church,—a statement which Mr. Gray illustrated by a reference to the case of the well-known James Melville, the nephew of the illustrious author of the second book of discipline.*—That the church actually settled ministers in charges where there was no security for a stipend of any kind, and this so frequently and notoriously as to have raised a formal discussion in the assembly of 1565, whether it were lawful for men once ordained to the ministry to leave it, and to follow a secular calling, in consequence of finding themselves without the means of subsistence.—That these things were not done *per incuriam*, but deliberately and on principle. In proof of this last assertion, Mr. Gray adverted to the judgment pronounced by the assembly of 1600, when the propriety of following this course had been specially considered. "The question being moved, if it be lawful, where congregations

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Mr. Gray's other propositions.

The case of James Melville.

* M'Crie's *Life of Melville*, vol. i., p. 327–329.

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Decision of the Assembly of 1600, as to the erection of new churches by private means.

are so spacious that a great part of the same may not commodiously resort to their own parish kirk, by reason of the great distance of the same, that a number of the said congregation build a new kirk, and entertain a pastor upon their own expenses? The assembly, after long reasoning, thought it lawful, and declared they would assist the same as a godly work, and crave the same to be ratified in parliament as oft as it did occur."* 1834

The theory of this procedure on the part of the Church.

The theory of the church's procedure in all this, cannot be mistaken. What it accounted to be the first and the fundamental question in agreeing to ordain a minister, and to invest him with the full powers of his office, was not, Is there a benefice to sustain an additional minister? but, Is there a cure of souls requiring the services of an additional minister? To meet the spiritual necessities of the people was evidently, in the church's estimation, the thing to be first thought of, and first attended to. As the national church, intrusted with the spiritual interests of the entire population, it could not consent that an overgrown town or country parish should be left without the means of grace, till a well-secured endowmnent had been provided. But having first furnished the means of grace, it then addressed itself to the parties, whether public or private, from whom it seemed most suitable and most likely that the necessary temporal support should come, and urged them to do their duty. On this footing, everything the church did in settling ministers where no secure or sufficient stipend had been at the time provided, becomes perfectly intelligible. But, on the other hand, had an endowment been regarded by the church as a *sine qua non*, without which, ministers were either not to be ordained at all, or if ordained, were to be excluded like the modern chapel ministers from church

The Church provided the means of grace, and took the means of support either from the State or from private individuals.

* Calderwood, p. 837.

1834. courts, and stripped of the ruling powers of their office, the constitution and the practice of the church would be found alike inexplicable. Such was the substance of the argument, which, by means of his five historical propositions, Mr. Gray so conclusively and unanswerably maintained. "To make that historical argument complete, all that seems now to be necessary," said Mr. Gray, "is to show that the views of the state appear to have harmonized with those of the church upon the point under discussion. The proof of this proposition will be found in the act of the Scottish parliament of 1690, on which the church of Scotland at present rests, as a religious establishment, and which recognizes the right of a class of ministers, who had no other support than what came from the contributions of their flocks, to take part in administering the ecclesiastical government. The words of the act are: 'Allowing and declaring that the church government be established in the hands of, and be exercised by those presbyterian ministers who were outed since the 1st of January, 1661, for nonconformity to prelacy, or not complying with the course of the times, and are now restored by the late act of parliament, *and such ministers and elders only as they have admitted and received, or shall hereafter admit and receive!*' But," continued Mr. Gray, "the ministers they had 'admitted and received,' were not, and could not be in the receipt of legal stipends, or possessed of benefices, because their admission had taken place in the time of prelacy: and they had no other *status* at the passing of the act, than that of pastors of meeting-houses, which had been opened under the authority of the indulgences issued during the later years of the dynasty of Stewart." The grounds on which he rested his case being thus firmly laid, he felt himself entitled with confidence to say:—"The historic sketch which I have thus ventured to present, might have been made much more

CHAP. VI.

Mr. Gray's historical argument completed, by a reference to the act of parliament, 1690.

The outed ministers who were restored in 1690, were without either benefices or parochial cures.

CHAP. VI. minute: and I am sensible that in studying brevity, I have 1834.
weakened the force of the argument which it affords: but still I think it is most powerfully demonstrative that our proposal implies no innovation, and aims at no novelty: but that the present chapel system is contrary to all analogy in the church of Scotland, and contrary to the practice of our forefathers for 190 years: and that unless the founders of our establishment, whether connected with the church or with the state,—unless Knox and Melville, Gillespie and Henderson,—unless nearly one hundred general assemblies, were utterly ignorant of what an establishment is, the prayer of the petition now lying on your table may be granted without the slightest infringement of any principle which is peculiar to your situation, as a church, that is recognized and established by the law of the land."

On these grounds Mr. Gray condemns the chapel system as an innovation upon the ancient practice and the existing standards of the Church.

After following up his constitutional argument with some valuable reflections on the practical advantages of the proposed measure, the speaker gave way to another of his brethren, the Rev. C. J. Brown, then minister of Anderston chapel, Glasgow. Mr. Brown, who also spoke from the bar, applied himself chiefly, in his perspicuous and forcible address, to the question of endowments. There were some in the church, whose objection to the measure under discussion did not rest at all on any doubts as to the competency of the assembly to adopt it, or on any want of sympathy with the evangelical and reforming principles which the great majority of the chapel ministers were known to cherish. Their difficulty was one altogether on the side of expediency. They were disposed to think that the introduction of the chapel ministers into the church courts, and the giving of a parochial or territorial character, *quoad spiritualia*, to their places of worship, might hinder, instead of helping forward, any efforts that might be made to get them endowed. Of this not numerous class of objectors, Dr. Chalmers was one;

The Rev. C. J. Brown: his speech on the subject of endowments.

1834. and, but for the weight which it derived from his distinguished name, their opposition would neither have deserved nor received much consideration. On his part, the opposition was eminently, and, in one sense, honourably characteristic of the man. It has been already noticed that his tastes, in matters ecclesiastical, lay greatly more with the economical than the juridical. Constitutional questions had not, at that time, engaged much of his attention. It was the practical working of the church to which his thoughts had been chiefly turned. And full as he was of a just and enlightened admiration of the parochial or territorial system —the system which laid down a certain specific locality as the well-defined and manageable field on which the minister and his elders should go forth, from day to day, and from house to house, to gather its families into the house of God, and to bring them under the ministrations of the gospel,— his whole heart was on fire to have this well-tried system made co-extensive with the spiritual wants of every overgrown parish in the land. The system followed by all the dissenting churches, he was wont, with that felicitous phraseology for which he was so remarkable, to designate the *attractive*, in contradistinction to his own favourite territorial system, which he styled the *aggressive*. The unendowed dissenting church drew into it by the attractive force of its minister's fame, as a preacher, a certain number from all distances, and from all points of the compass. The endowed territorial church sent forth its agency, after the manner described by our Lord in his parable of the marriage supper, into the streets and lanes, or into the highways and hedges around it, so as, in the scriptural sense of the terms, "to compel them to come in," that God's house might be filled. And knowing, from a long and unquestionable experience, that the latter of these two forces was immensely more powerful than the former,—that while the attractive

CHAP. VI.

The views of Dr. Chalmers on the chapel question.

The attractive and aggressive systems,—as described by Dr. Chalmers.

CHAP. VI. system touched little more than the mere surface of society, 1834.
it was the aggressive alone that could penetrate down to its lowest depths, and, reaching the degraded masses lying neglected, out of sight and out of mind, could bring them up to the light and the consolations of a gospel ministry,—

Dr. Chalmers' preference for the aggressive system: and his consequent anxiety for endowments.

it was therefore with Dr. Chalmers the grand desideratum to get what he regarded as the main requisite for the extension of the aggressive system immediately supplied. That requisite he considered to be an endowment. Without an endowment, it would be impossible to bring the territorial church system to bear on the poorer and more destitute districts, whether of town or country, and his fear was, that if a territorial status should be given to the chapels of ease before an endowment had been procured for them, the effect would be to mar the great experiment he had in view. The public and the government might thus be encouraged in the idea that endowments were not necessary, and that the benefit of additional territorial churches could be had without them. This result he dreaded all the more that in the great towns, where religious destitution chiefly prevailed, the civil authorities, in providing church accommodation, were getting more and more into the gross mercantile principle of allowing the demand to regulate the supply, making the parish churches, by means of high seat-rents, to support themselves, and thus relieving the funds of the city from any ecclesiastical burden, at the expense of shutting out the poorer parishioners from all access to a place of public worship. Under the influence of this apprehension he had

Dr. Chalmers' pamphlet on the chapel question: his fear that the Chapel Act might hinder the getting of endowments.

published, not long before, a pamphlet upon the subject, in which he had spoken of the movement for altering the position of the chapels of ease in the following terms:—"We desiderate a movement, but not such a movement as will plunge us from one anomaly into another: but a movement, even though it should be a more gradual one, by which the

1834. whole anomaly might be rectified and done away. If we do not make the assimilation ourselves, by transmuting these voluntary chapels into endowed churches, but admit them on their present footing into the high places of our establishment, then the likelihood is that the assimilation will be made for us in another way: and that is by the transmutation of the endowed into the voluntary. The present incipient tendencies of Edinburgh and Glasgow, and other towns, will be encouraged into full development, after having made so good a beginning ourselves, by admitting sixty-six voluntary churches within the pale; our work will thus be taken up by other hands, until they have made the church of Scotland a universal voluntary from one end to the other of it. We shall then be rid of our anomalies with a vengeance."

This argument of expediency no answer to the argument of principle.

But this was evidently no answer to the plea of the chapel ministers. What they urged was a scriptural and constitutional right. By virtue of our office, said they, as ministers of particular congregations, we are entitled to be put in a position to perform all those functions which God's Word, as well as the laws and standards of the church, recognize as belonging to our office; and it will not do to refuse our claims on the alleged ground that other parties, external to the church, may turn the concession of that claim to a wrong use; because already we labour under one disadvantage in being without an endowment, this is no reason why we should continue subject to another disadvantage in being denied the exercise of one-half of our ministerial powers: the fact that the state fails in its duty in granting us that temporal support which would enable us to labour more effectively for the public good, cannot justify the church in putting us under an additional and a still heavier disability by refusing to us the full rights of our spiritual office. Even on that lower ground of mere expediency on which Dr. Chalmers

Though the State might neglect its duty as to granting endowments, —the Church must not neglect her duty to grant to the chapel ministers their full spiritual powers.

CHAP. VI. based his argument, Mr. Brown could face his opponents 1834.

Mr. Brown's reply to the argument of Dr. Chalmers.

without fear. "Would your admitting us," he demanded, after reading the above-quoted passage from the pamphlet of Dr. Chalmers, "into church courts unendowed, imply that you thought endowments useless, or that you had altered your judgment as to their vast importance, nay, indispensable necessity, to the full efficiency of the church? You would, no doubt, declare, by admitting us, that you were not prepared lightly to sacrifice the most fundamental principles of your ecclesiastical constitution. But instead of thus giving a handle to voluntary churchmen, you would take one from them; since they not only can, but in point of fact do, urge these very anomalies in our status, as illustrative of the trammels into which the church of Christ is brought by a connection with the state."

Mr. Brown contends that even expediency was on the side of the chapel act.

Instead of feeling his cause to be weak in this practical aspect of it, or in its bearing on the great question of church establishments, which were then the question of the day, the speaker was prepared to address himself to these very views of the subject, as supplying him with some of his best and most powerful arguments. "The fact," he said, "is now, alas, too notorious to require either proof or illustration, that the population of this country has completely outgrown, and is every day more and more outgrowing the means of grace provided within the established church. I might dwell on the fearful effects of this state of things, as it regards the spiritual and eternal interests of our fellow-countrymen,—which indeed is by far the most important view of the subject, and that by which we ought chiefly to be moved in devising a remedy for the evil. But I purposely confine myself to the bearing of the fact on the prospects of the church establishment. You may argue never so powerfully in support of a national establishment of christianity, but the established church must ultimately come down, if

The Establishment endangered by crippling its extension through the restrictions of the chapel system.

1834. the mass of the people are allowed to fall away from its communion. The question then is, how is the progress of this evil to be checked? We shall all agree in answering, under God, by the rapid extension of pastoral superintendence among the people. But then, next comes the question, how is this to be accomplished? By endowments, say some,—well; but from whence are they to come to the extent to which we need them? Has the church the command of the public purse? We question not, sir, the duty of the legislature in this matter. We question not the mighty importance of its aid. But we cannot shut our eyes to the state of public affairs. We cannot but think that in times like these, it savours more of infatuation than of sound practical wisdom, to build up ourselves in the confidence of a speedy and large accession to our endowments; and believing it therefore to be indispensable to the very existence of the establishment, that for the future it should look much to the affections, and draw largely on the liberality of its friends; we now from this draw the obvious conclusion, that the church must give to her friends the same encouragements for building churches within her pale, as dissenters have not failed to give them for building them out of it; that instead of throwing barriers in their way, saying, for example, you must not only build and maintain, but you must further sink your property in endowing, or we can have nothing to do with you,—she must furnish them with all possible facilities for erecting churches moderately sized, and cheap, and numerous; in a word, that instead of barely tolerating such churches, she must gladly embrace them and encourage them, not so much the less, but so much the more, by how much the more disadvantageous their situation is."

The means of Church extension in these times, to be looked for rather from the people than from the State.

The discussion having passed from the bar to the body of the house, it was moved by Professor Brown, of Aberdeen,

CHAP. VI. 1834.

The motion of Professor Brown for removing the disabilities of ministers of chapels of ease.

that the general assembly having maturely considered the report of the committee, and the overtures and petitions relative to chapels of ease, approve of the principles and recommendations of the report, and appoint a committee to prepare a declaratory act in accordance therewith, and report to a future diet of the assembly. The principal speakers in opposition to this motion were the Rev. James Grant, then of South Leith, and the Rev. Dr. Cook, of St. Andrews. The former dwelt chiefly on the want of endowments. Churches unendowed could have no stability: they might be here to-day and away to-morrow. To attach territorial districts to such fleeting and transitory institutions, would be to degrade the parochial system; and to invest their ministers with a parochial status, would be, in their circumstances, only to make the distinction between them and their beneficed brethren more marked and painful than before. Dr. Cook, on the other hand, assailed the motion of Dr. Brown mainly on the ground of its being, as he alleged, beyond the competency of the assembly to give effect to the proposal which it embodied. "After careful consideration," he said, "I adhere to the opinion stated last year, that it is *ultra vires* of the assembly to place chapels on the same footing as parish churches. The whole system of parish arrangements is the effect of the legislation of the country. There are certain civil privileges connected with them, and ministers inducted to parishes have, in consequence of such induction, certain civil privileges which it is altogether out of the question to suppose that an ecclesiastical court could bestow on them. We sit in synods and in general assemblies solely and purely as ecclesiastical courts, but in presbyteries in the double capacity of spiritual and temporal courts: and as members of presbytery, we sit in judgment on manses and glebes, and have certain temporal acts to perform, which no man out of the church can

Dr. Cook opposes the motion as *ultra vires* of the Assembly.

1834. perform, and which we could not have been warranted to perform, had not the acts of the legislature made us the established church of the country."

The answer to Dr. Cook's objection.

In making these strong assertions, Dr. Cook failed altogether to establish them by either evidence or argument. It is true that the acts of the church courts, in certain instances, affect temporal interests, and that in one or two special cases temporal matters are submitted to their adjudication. It is also true that the power of the church courts to handle such matters, and to carry civil consequences in the train of their ecclesiastical decisions resulted, and could result, only from the authority of acts of parliament. But to say and to show this, made nothing for the conclusion which Dr. Cook founded on it, unless he had been able also to prove that it belonged to the civil law to determine who should, and who should not, be admitted into the courts of the church. It did not follow that because the state had conferred a certain amount of civil jurisdiction on the church courts, that therefore the constitution of these courts became a matter of civil regulation. This were simply in other words to say that erastianism is involved in the very essence of the church establishment principle; that by the mere act of establishing the church the state necessarily becomes its rightful lord and master. In the learned and masterly speech in which Mr. Dunlop replied to Dr. Cook, he made it clear, by an explicit reference to all the leading acts establishing the church, that the state recognized the governing authority in the church as belonging to "the spiritual office-bearers of the church," without reference to any civil connection with either parishes or benefices. Coming down in his elaborate exposition of the statutes to that of 1690, the foundation of the existing establishment, and after reciting from it the words which had already been quoted by Mr. Gray,—"This statute, it will be observed,"

Dr. Cook's argument would make erastianism to be of the very essence of a Church Establishment.

CHAP. VI. 1834.

Mr. Dunlop's answer to Dr. Cook's argument of incompetency.

said Mr. Dunlop, "does not pretend to confer anything on the church: it *allows* and *declares* that the government of the church is established in the presbyterian ministers whom it specifies, and recognizes that government as *existing* not only in ministers restored to parishes from which they had been previously ejected, but also *in all those ministers who had been admitted to the pastoral office* during the subsistence of episcopacy, and who possessed no character nor *status* whatever, but that of *pastors of congregations alone.* This is still more clear when contrasted with the subsequent part of the statute, which regards the civil rights and privileges of ministers; for while it recognizes the powers of church government as being *in all the pastors* who had been received during the subsistence of episcopacy, it declares that the ministers shall have right to the maintenance, rights, and other privileges by law provided to the ministers of Christ's church within this kingdom, *as they are or shall be legally admitted to particular churches.*"

His exposition of the Act 1690 as bearing on the question.

"Now here," continued Mr. Dunlop, "in so far as regards the church government, it is expressly declared to belong to pastors of congregations without qualification; while as to the maintenance, rights, and privileges *by law provided,* these are declared only to belong to such as shall be legally admitted to particular parishes; but as to every privilege inherent in themselves, not in virtue of the civil law, but in virtue of the constitution of the church and the ordinance of scripture, they are entitled to exercise them at once as being pastors duly admitted into the pastoral office of the church. Nothing therefore can be more clear than that under this act, no qualification is required but that of the possession of the pastoral office itself, and that on the contrary, the right of every pastor to a share in the government of the church, is expressly acknowledged and recognized." "But, it is said," the speaker further remarked, bringing his able argument

1834. to bear more directly on Dr. Cook's grand difficulty, "it is said by the learned doctor, that although we were to admit the ministers of chapels into our church courts, we could not confer on them the power of deciding in certain civil matters which come under the cognizance of these courts. Now I admit that the church has no power to *confer* any civil privilege whatever; but where the state has attached to an ecclesiastical *status* the possession of any civil privilege, then it follows, by inevitable consequence, that whenever that *status* is lawfully conferred by the church, the civil privilege necessarily follows." As to the jurisdiction which the civil law gives to presbyteries in regard to manses and glebes, Mr. Dunlop called on Dr. Cook and the house to bear in mind that it had been conferred, not on the *individual ministers*, but on the presbyteries, in their corporate character as church courts. And hence "whenever any one is lawfully admitted to the ecclesiastical status of a lawful member of presbytery, it necessarily follows that he is entitled to a voice in those civil matters, in regard to which a jurisdiction has been conferred on presbyteries, while it belongs to the church alone to determine who are the constituent members of such courts." But even if this point were thought doubtful; even if it should be found by the civil courts that the chapel ministers had no vote in such matters, where, asked Mr. Dunlop, would be the monstrous evil sufficient to prevent their being admitted to the proper ecclesiastical privileges of their office? Could a difficulty of that kind be for a moment put in competition with the spreading of the gospel among thousands, who would never otherwise hear its sound?

The State has attached whatever civil jurisdiction it has conferred on ministers, to an ecclesiastical *status*, which it belongs to the Church to regulate.

It might, indeed, have been expected that after what had been done with the full concurrence of the moderate party, and by a unanimous assembly only the year before, Dr. Cook's argument would never have been produced. Although

The act of Assembly, 1833, as to the parliamentary Church ministers.

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the assembly of 1833 had hesitated to concede the claims of the chapel ministers, it had, without any hesitation whatever, acknowledged those of another class whose case was substantially the same. About forty churches had been recently erected, under the authority of an act of Parliament, in the highlands. The act in question not only did not confer a parochial status on these churches, or upon their ministers, but it expressly declared that the districts attached to them were *not* disjoined from the original parishes, and that the ministers and elders who might officiate in them were *not* formed into separate kirk-sessions. And yet the general assembly, upon the report of a committee, of which Dr. Cook was convener, unanimously admitted the ministers of these parliamentary churches to "exercise and enjoy, within their respective districts, the whole powers and privileges now competent to parish ministers;"—admitting them to church courts, side by side with their brethren. Some years later, when the collision between the civil and ecclesiastical courts had begun, and when he was himself urging forward those proceedings in which it originated, Mr Hope, then dean of the faculty of advocates, had the indecency, for no other term will describe it, to characterize the act of assembly, 1833, admitting the parliamentary church ministers, as "a very remarkable instance of the systematic disregard of all the limits of civil and ecclesiastical jurisdiction, which has been established of late years in the proceedings of the church of Scotland," and as having been "intended to pave the way for the introduction of the ministers of chapels of ease into the assembly!" Dr. Cook and his party successfully opposed, in 1833, the claims of the chapel ministers: and yet Mr Hope is not ashamed to say, that the act in favour of the ministers of the parliamentary churches, passed under the immediate auspices of the very same individuals, was intended to advance the ob-

1834.

The parliamentary Churches' act of 1833, was passed under the immediate auspices of Dr. Cook, and was the very same in principle as the chapel act of 1834.

Extravagant statement of Mr. Hope regarding the act of 1833.

1834. ject which they had themselves defeated! And the admission into church courts of the parliamentary-church ministers was a "very remarkable instance" of the systematic disregard of all the limits of civil and ecclesiastical jurisdiction! It is thus Mr Hope speaks of a deed recommended by a committee of which he was himself an uncomplaining member, and done by the assembly without so much as one dissenting voice! The deed in question became shortly thereafter the occasion of an amicable suit before the courts of law, with a view to ascertain whether the ministers of these parliamentary churches were now within the provisions of the statute for regulating the ministers' widows' fund. In determining that point, the court had to consider the act of assembly, 1833, and to consider it in relation to the special terms of the act of parliament under which the parliamentary churches had been erected. This was in 1836. The conflict of the courts had not then commenced, and the dust, through which afterwards things assumed such horrid shapes, had not then arisen to blind judicial eyes. The lord president of the court, Mr Hope's father, was not able at that time, to see anything at all "remarkable" in the act of assembly, 1833. "This was a matter," said his lordship, speaking from the bench, "*within the proper province of the assembly.* They had *power to pass such an act*, and they exercised that power: and I see no conflict between the provisions of this act and those of the statute. The parliament on the one hand, and the assembly on the other, *each being supreme in its own province*, passed their respective enactments, both tending to the same end, and the last being in supplement of the first. The assembly made no disjunction of parishes *quoad civilia*, but it declared the ministers to be members of all church courts: and it also declared them to possess all the privileges of the parish ministers of Scotland, and *that the*

The act of 1833, condemned by Mr. Hope, was recommended by a committe of which he was himself a member.

Opinions of the judges of the Court of Session as to the act of Assembly, 1833.

The Lord President Hope declares the act 1833 to have been within the competency of the Church.

CHAP. VI. *assembly alone could do.* I do not think the assembly exercised a *new* power in declaring a minister to be possessed of such privileges. I conceive the same power to have been exercised in analogous cases, such as when second ministers were appointed, or in any of the numerous instances where new ministers were appointed in Scotland."* 1834.

Reflection on Mr. Hope's attack upon the act 1833.

Such an incident may seem unimportant. In itself, indeed, nothing could be more unimportant than the fact that Mr. Hope wrote of the act of assembly 1833, in the terms above quoted. It throws an instructive light, however, on the history of those events which gave birth to the disruption of the church of Scotland. Studying them in that light, posterity will know what to ascribe to passion and partizanship, and what to reason and truth.

Mr. Dunlop's speech in the Chapel act debate of 1834.

"I own," said Mr. Dunlop, after hearing Dr. Cook set forth his argument about the church's want of power to admit the claims of the ministers of chapels of ease, in the debate of 1834, "it was with surprise I heard him advance this argument once more,—an argument which I had thought was completely abandoned. After the unanimous decision of this house last year, in regard to the ministers of parliamentary churches, so universally carried into effect, and not reclaimed against by a single presbytery, I had hoped the objection would not be repeated in regard to the ministers of chapels of ease." It was a kind of argument, however, that had always been a favourite one with the moderate party in the church. When urged the year before, in the debate on calls, it drew forth from the Rev. William Cunningham one of those prompt and masterly commentaries by which, so often afterwards, in the course of the great controversy that was then arising, he at once rebuked and exposed the sophistry and secularity of such

* Dunlop's *Answer to the Letter of the Dean of Faculty*, p. 4.

1834. objections as that of Dr. Cook. "In regard to the general character of this plea (of want of power), I must say that I always hear it urged with extreme suspicion. It has been often urged in this house, on various occasions, and it has exerted far too great an influence on our proceedings. It has, however, seldom if ever been brought forward, except for the purpose of deterring the church from the proper discharge of its duty, from the rightful exercise of its prerogatives, and from the due improvement of its opportunities of usefulness. The principle upon which this house has too often acted seems to have been something like this,—that in consequence of our connection with the state, we have no power to do anything, however closely connected with the interests of religion, which the state has not expressly warranted and authorized; whereas, the true principle by which we ought to be guided,—true alike in doctrine and in fact,—is this, that notwithstanding our connection with the state, we can and ought to do everything fitted to promote the interests of religion, which the state has not expressly prohibited."

The remarks of the Rev. W. Cunningham on the favourite plea of Dr. Cook and his friends, that this and the other measure were *ultra vires*.

Dr. Cook was certainly altogether unable, and did not even make the attempt, to show that there was anything whatever either in the terms or the spirit of the church's connection with the state, to disqualify any minister whom the church had duly ordained to a particular congregation, from exercising the powers proper to his spiritual office, by ruling as well as teaching. It was not to be supposed that his naked denial of the church's power in the matter, should have much weight with the assembly. Even among his own supporters, only a limited number coincided with him in that particular point,—the stress of their opposition, as has been already noticed, being directed to the want of endowments from the state rather than to the want of power in the church. In point of fact, in the amendment which

Dr. Cook failed to support his assertion of the Church's incompetency by either evidence or argument.

CHAP. VI. Dr. Cook moved, he was careful not to assert his own doc- 1834
trine of the church's want of power, knowing well that to have done so, would have been to separate from him, in the vote, a large number of his own friends. His amendment was in the following terms:—"The general assembly having considered the overtures relative to chapels of ease, and also the report of the committee of last assembly in respect thereto, highly approve the purpose of these overtures, and of that report; and with a view of most effectually and permanently securing it, appoint a committee to correspond with government, or with the officers of the crown, for obtaining a legislative enactment, through which, with the consent of all parties interested, parishes may be divided, or the districts now attached to chapels of ease, *quoad spiritualia*, may be assigned to them as parishes when the church is satisfied that this is proper or necessary for the instruction of the people. The general assembly further instruct the committee to take the measures which, to them, may seem best calculated to procure permanent endowments to such chapels as it may be deemed expedient to erect into parish churches, and to make all arrangements relative to carrying the scheme into effect; and, in the meantime, the general assembly instruct presbyteries to report to next assembly, whether, in their estimation, such a change as to chapels of ease should take place, and the present law, with regard to them be, upon the adoption of the new system, rescinded."

In his amendment he avoided all reference to the point of alleged incompetency.

Dr. Cook's counter motion to that of Professor Brown's.

To effect all which this amendment embraced, the interposition of the legislature would have been obviously indispensable; but there was nothing in this amendment necessarily to imply that the more limited and strictly spiritual privileges which it was designed by Dr. Brown's motion to confer on the chapel of ease ministers might not be accomplished without the intervention of the civil power. Among

1834. the memorabilia of this important debate was the speech of the Rev. Mr Carment of Rosskeen, whose quaint but never caustic humour, and whose strong good sense, rendered his address one of the most effective which the discussion produced. He had been formerly, and for many years, a chapel minister himself, in the city of Glasgow, and was not disposed to treat with much respect Mr Grant's disparaging observation upon the insecurity of chapel stipends. "I really wonder," said he, "that ministers of high degree in a certain city," alluding to the ministers of Edinburgh, whose stipends are derived from a tax on house property, which was then, as it is still, extremely obnoxious to many of the inhabitants, "should talk so much about endowment, as I really think that their own stipends are not so very secure. I conceive the stipends of chapel ministers to be in less danger than the stipends of certain (parish) ministers. We had a list of grievances and difficulties held out by Mr Grant, but really, sir, he might as well say, Oh, may be a flood or an earthquake will come and carry away ministers and chapels! Taking it in a pecuniary and political view, it would be found the duty and interest of landed proprietors to do all that lies in them to spread churches over the length and breadth of the land. But how are you to obtain endowments for such churches? It is in vain, in present circumstances, to apply to government—but I will tell you how such endowments might be got: send abroad ministers of piety and energy through the length and breadth of the land, and, as it happened in the church of Jerusalem in the days of the apostles, you will raise up many Barnabases, who will go and sell all their possessions and come and lay them down at the foot of the cross." And after alluding to the noble example of such christian liberality which was at that very moment exhibiting itself in the city of Glasgow, and to the blessed and

CHAP. VI.

Speech of the Rev. Mr. Carment, of Rosskeen.

He repels the charge that the stipends of Chapel ministers were insecure.

Ridicules Mr. Grant's difficulties.

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Refers to the Church Building movement then beginning in Glasgow.

glorious change that might speedily be accomplished upon 1834.
the destitute districts both of town and country, were such efforts suitably encouraged and increased,—"The only way," he continued, "to come to a consummation so devoutly to be wished is by giving the chapel ministers the rights to which they have a claim, and thus infusing into the minds of our people such a spirit as that which has been displayed in the city of Glasgow, where such a glorious effort has been made to rescue from the ways of sin a population which the rulers of our land had allowed to sink into the lowest degradation, by shutting the doors of the house of God against them* and opening the haunts of sin and wickedness. Are such efforts to be accomplished by a long palaver about forms, and expediency, and endowments? No, sir, remove your barriers, open wide your doors, and then, I am convinced, you will see the liberality of the public, and even of heritors, manifested in a way never yet known; but this is not to be done by dry lectures, on form and expediency. No, sir, we have in the word of God a powerful instrument which we are commanded to use. Some learned doctors, indeed, say that this must be done slowly and deliberately—that we must wait till the great recipe which they have discovered, be applied—till an endowment be procured. Just as wisely might some of these same learned doctors tell me, when my house is on fire, not to be too hasty in extinguishing it, to wait a little till they apply some wonderful chemical composition to be received from London. In the matters of the church they must get some wonderful chemical composition from Lord Althorp's† laboratory. But, sir, while you are waiting for the application of this wonderful specific, all Glasgow and all Edinburgh may be consumed!"

Mr. Carment's view of the *moderate* recipe for arresting the progress of spiritual destitution.

Lord Althorp's laboratory.

* By imposing high seat-rents in the city parish churches.

† Lord Althorp was then chancellor of the exchequer.

1834. This graphic appeal of the old Ross-shire minister was no mere touch of rhetoric. It was not more telling than true. The effort to which Mr. Carment alluded as being then in progress in Glasgow, presented a striking proof of the bearing of this movement in the assembly, on the great cause of the extension of the church. A society had been formed in that city a few months before, and had already raised the magnificent sum of £20,000 for the building of additional churches in Glasgow; but the condition on which this money was subscribed, and without which the society would not have been authorized to expend a single shilling of their rapidly increasing fund, was this, that the churches must be parochial.* The truly enlightened and generous founder of the society, Mr. William Collins, a man whose name will be held in honour by his fellow-citizens, at least till they become ashamed of the venerable legend upon their city's shield—"Let Glasgow flourish by the preaching of the word;" this man was an office-bearer of the church in which Chalmers had ministered, and where he had given that marvellous impulse to the cause of Christian philanthropy which continues to the present hour. Collins was a disciple of Chalmers. His church building society was a reflection from the great soul of the instructor, at whose feet he had sat for years. It was not the chapel system, with its feeble power of *attraction*, but the territorial church system, with its strong and active *aggression*, that was to penetrate the dense lanes of Glasgow, and to carry saving light and health into their spiritually dark and desolate

The Glasgow Church Building Society.

Its founder, Mr. William Collins.

* By a decision of the house of lords, pronounced in February 1849, the churches of that society, though stripped of their parochial character in 1843 by one of those judgments of the courts of law which led to the disruption, have been secured to the established church, and the society prohibited from selling them and returning the money to the subscribers. The establishment is to keep the churches, even although its bargain with those who built them has been broken.

CHAP. VI.

habitations. And this accordingly was the scheme of the church building society. Had the assembly of 1834 rejected the claims of the chapel ministers, it would have brought the operations of the Glasgow church building society, with its noble enterprize of rearing twenty additional churches, at once to an end. It was therefore no abstract theoretical reform that was now agitating the supreme court of the church. It was a question of giving or not giving the gospel to thousands and tens of thousands in over-peopled parishes, for whose souls there was no man, according to the then existing state of things, to care. There was an old minister, the historian Calderwood relates, who had taken part in the first reformation, but who lived to see, in his declining years, a spirit arising that augured ill for the church. At a meeting of the synod of Fyfe in the year 1596, this aged servant of God, David Ferguson by name, adverting to the days of his youth, "discovered how that a few preachers, viz., only six, whereof himself was one, went forward, without fear or care of the world, and prevailed, when there was no name of a stipend heard tell of, when authorities, both ecclesiastical and civil, opposed themselves, and there was scarce a man of note or estimation to take the matter in hand; but that now the fear or flattery of man, care of purchasing or fear of losing moyen or stipend, had weakened the hearts of a number of ministers." It was after reading this significant citation that Mr. Dunlop concluded, with this beautiful peroration, what was undoubtedly the speech of the day:—"I would that I could call back the feelings of this house to the period here spoken of, when our fathers, amidst difficulties and dangers, struggled and overcame; while they strove for the aid of man—which they valued at, and not beyond, its worth—they unhesitatingly, and with unwavering confidence in the presence of God, rushed into the battle and prevailed. The conflict

1834.

Had the Assembly refused to pass the Chapel act, the Church Building Society of Glasgow would have been dissolved.

Speech of the Rev. David Ferguson, in 1596.

Peroration of Mr. Dunlop's speech.

1834. was severe, but at length they conquered, and at the glorious revolution they encamped their thousand tents in peace, and reared a wall of safety around. For a while they abode in harmony and joy. Morning and evening the voice of praise and prayer rose from their dwellings, and all within was peace. This lasted not. An hundred years are gone since unjustly they thrust forth a brother who pitched his solitary tent beyond their walls. Another and another they expelled. Their numbers multiplied, but no new tabernacles were provided, and others departed and joined their exiled brethren. These day by day increased, till now we see their tents thickly crowded around on every side. For many years those we had sent forth looked back with longing eyes and loving hearts to the camp which they had left, waiting the day when we should enlarge our borders, reverse the sentence of their exile, and open our gates to receive them home. But as the fathers dropped into the grave, sons arose with other feelings and with other hopes; a goodly company still hold by their ancient truth, and these yet pray for an entry into their beloved Zion. But, alas! for the greater part, their love is turned to hate, and they now look towards our camp with the impious wish to overthrow its walls, and to revel in its spoils. While this sad change advanced without, we in cold apathy within, year after year, for these same hundred years, assembled in this the chief tent of our encampment. Over our heads was the standard under which our fathers had fought, and bled, and conquered: though, alas! the banner no longer floated in the breeze, but, still and motionless, clung to the staff. This year again we have assembled once more, but under better auspices. Our anxious people from the door of every tent intensely watch the holy banner. Already, blessed be God, they have seen it slightly unfurl in the rising breeze, and lift itself in part from the staff, and the solemn stir of

The spirit of the first seceders.

A different spirit has arisen among their successors.

The eyes of the members of the Church now fixed intently and anxiously on the Assembly.

CHAP. VI. preparation is heard throughout the camp; and at this very hour, with prayer, uplifted hands and eager eyes, they watch the moment when they shall see it once more broadly unfold itself to the glorious sun, and hail it with one long loud hosannah that shall resound from shore to shore. Oh then, fling it forth bold and free; wave it, wave it o'er your head, and your people will rally round it as of old, and you shall lead them forth to a glorious victory, soon to return to a more glorious peace." 1834.

The division: Professor Brown's motion carried by 152 to 103.

The debate closed and the division came. The motion of Professor Brown was affirmed by a majority of 49, the numbers being 152 to 103. A committee was accordingly appointed to prepare a declaratory act for admitting chapels of ease to the ecclesiastical status of parish churches, accompanied with a directory for the guidance of presbyteries in carrying the law into effect. On Saturday the 31st of May, the committee gave in its report, and the act and relative directory became the law of the church.

CHAP. VII.

THE FRUITS OF EVANGELICAL ASCENDENCY.

1834 to 1838. THE friends of the veto-law and the chapel act, the adoption of which signalized the assembly of 1834, could have no difficulty whatever in consenting that the wisdom and the worth of these measures should be tested by their fruits. They had been already tried by an appeal to the church's laws, and standards, and history; and to a very decided majority of the assembly it had appeared, that the judgment pronounced by these authorities was altogether and unequivocally in favour of the measures in question. But the other mode of ascertaining their real merits, by the test, namely, of their practical utility, is now also open, and their supporters and advocates have no cause to shrink from its application.

The measures of 1834 can bear to be tested by their fruits.

Reference has been already made to the mournful and alarming deficiency which then existed, in very many places, of the means of religious instruction and pastoral superintendence. St. Cuthbert's, for example, the suburban parish of the city of Edinburgh, with a population even at that time of sixty or seventy thousand, had only its parish church and three chapels of ease as the entire amount of provision made within the pale of the establishment, for the spiritual wants of its inhabitants. The barony parish of Glasgow, with a population larger still, was, in respect of its ecclesiastical equipment, exactly in the same position. These, it is true, were the extreme cases, but a multitude of others could easily be named, in which religious destitution was scarcely less marked or less deplorable. This state of things had begun to force itself, even before moderatism had lost the reins of government, upon the attention of the general

Specimens of religious destitution: St. Cuthbert's, Edinburgh: Barony, Glasgow.

State of overgrown parishes had begun to attract attention in the Assembly, previous to 1834.

assembly. A committee on church accommodation had been formed, and the Rev. Dr. Brunton, one of the ministers of Edinburgh, and professor of Hebrew in the metropolitan university, had been placed at its head. It is abundantly notorious that the existence of that committee was due to the growing numbers and influence of those who were destined ere long to have the control of ecclesiastical affairs in their own hands. Nor was it perhaps unnatural that while yielding, in so far as the appointment of a church accommodation committee was concerned, to this increasing minority, the still dominant party of moderatism should, at the same time, have set over it one of themselves. In Dr. Brunton's hands, however, the cause made no progress. Independently of his want of any peculiar aptitude for stimulating or conducting an enterprize of that kind, there were then difficulties in its way which even a greatly more energetic management than his could not have overcome. These were the difficulties interposed partly by the disabilities of the chapel system, and partly by the want of confidence in the party that still swayed the counsels of the church. The assembly of 1834 took both of these obstacles out of the way. It put an end to the chapel system, and, guided by an evangelical majority, secured for itself a title to the character of a really reforming assembly. The effect was alike instantaneous and remarkable. Dr. Brunton resigned at that very assembly, an office which in his hands had been purely nominal. Now at length, for the extension of the church, both the time had come and the man.

The Rev. Dr. Brunton and the Church accommodation committee.

The measures of 1834, mark the commencement of Church extension.

Long before the church in its corporate character had begun to interest itself in the state of the neglected masses that were so rapidly accumulating, especially in the great manufacturing towns, Dr. Chalmers had already thrown his whole soul into the subject; and by his eloquence, and by his achievements at Glasgow, had done more than all

1688 to 1833.

other men put together, to prepare the public mind to respond to the appeal which at length issued under his own immediate auspices from the general assembly of the church. When the nation was startled in the month of November, 1817, by the sudden and lamented death of the Princess Charlotte, he seized the opportunity to turn men's thoughts to the consideration of the true sources of the country's danger. "The time has been," he said, in the well-known funeral sermon which the occasion called forth, "when such an event as the one we are now assembled to deplore, would have put every restless spirit into motion, and set a guilty ambition upon its murderous devices, and brought powerful pretenders with their opposing hosts of vassalage into the field, and enlisted towns and families under the rival banners of a most destructive fray of contention, and thus have broken up the whole peace and confidence of society. Let us bless God that these days of barbarism are now gone by. But the vessel of the state is still exposed to many agitations. The sea of politics is a sea of storms on which the gale of human passions would make her founder, were it not for the guidance of human principle: and therefore the truest policy of a nation is to christianize her subjects, and to disseminate among them the influence of religion. The most skilful arrangement for rightly governing a state, is to scatter among the governed, not the terrors of power, not the threats of jealous and alarmed authority, not the demonstrations of sure and ready vengeance held forth by the rigour of an offended law. These may at times be imperiously called for. But a permanent security against the wild outbreakings of turbulence and disaster, is only to be attained by diffusing the lessons of the gospel throughout the great mass of our population, even those lessons which are utterly and diametrically at antipodes with all that is criminal and wrong in the spirit of political disaffection." After showing, with

Dr. Chalmers had long been labouring to arouse the public mind upon the subject: his sermon on the death of the Princess Charlotte.

The lessons of the gospel and not the terrors of power, the best security of the State.

CHAP. VII. all his own graphic power, how that wholesome leaven was disappearing from among thousands, and tens of thousands of the working people, under the influence of those manifold temptations by which they were incessantly surrounded, and to whose destructive assaults they were to so large an extent abandoned, with hardly any one to care for their souls, "is there no room then," the preacher exclaimed, "to wish for twenty more churches, and twenty more ministers; for men of zeal, and of strength, who might go forth among these wanderers, and compel them to come in; for men of holy fervour, who might set the terrors of hell and the free offers of salvation before them; for men of affection, who might visit the sick, the dying, the afflicted, and cause the irresistible influence of kindness to circulate at large among their families; for men who, while they fastened their most intense aim on the great object of preparing sinners for eternity, would scatter along the path of their exertions all the blessings of order, and contentment, and sobriety, and at length make it manifest as day, that the righteousness of the people is the only effectual antidote to a country's ruin, the only path to a country's glory."

1834 to 1838.

Appeal for twenty new Churches in Glasgow, made by Dr. Chalmers in 1817.

Twenty additional churches and ministers for his own single city! It sounded like a wild extravagance. The vast majority saw no need of them. The wise men of this world had no great sense of their value. The political economists, busy with their science of wealth, made little account of an agency that was to be employed in the production, not of money, but of morals. The penny-wise people cried out at the very thought of the expense. The preacher in this, as in many other things, was far a-head of his age; men disregarded his advice, and it will be due to other causes than to their short-sighted policy, if his impressive warning be not ere long realized. Recent events, and the feeling of utter insecurity with which even the most

Dr. Chalmers' demand for twenty new Churches in Glasgow, seemed at the time extravagant

1834 to 1883.

thoughtless are constrained to regard the condition of society in most of the great towns and manufacturing districts of the kingdom, may now help men to understand that it was not the excited imagination of an alarmist, but the wisdom of one who had the spirit both of a patriot and a prophet that dictated these words: "I am surely not out of place, when, on looking at the mighty mass of a city population, I state my apprehension that, if something be not done to bring this enormous physical strength under the control of Christian and humanized principle, the day may yet come when it may lift against the authorities of the land its brawny vigour, and discharge upon them all the turbulence of its rude and volcanic energy."

The dangers to society which have resulted from refusing his demand.

Chalmers demanded twenty churches, and the city authorities gave him one—that famous St. John's in which his great moral experiments in regard to the management of the poor, and the general amelioration of the most neglected classes of the people were carried on, with an energy and a success amply sufficient to justify their author's most sanguine anticipations; but the community was not ripe for the reception of his doctrines, even when the demonstration of their soundness had been wrought out before its eyes. His gigantic efforts, however, were by no means in vain; individuals here and there, of large hearts and liberal minds, were adopting his views,—the more religious portion of society were becoming increasingly alive to their duty; an impulse had been given to the cause of Christian philanthropy which it never lost, and there needed only that favourable concurrence of events which appeared in the reforming assembly of 1834, to make manifest the amount of progress and preparation for a great church extension movement, which had been already made. At that assembly, upon the resignation of Dr. Brunton, Dr. Chalmers was immediately, and by common consent, summoned to take

The wonders wrought by Dr. Chalmers in St. John's parish, Glasgow.

Chalmers becomes the convener of the Church accommodation committee in 1834.

CHAP. VII. his place as convener of the committee on church accommodation. Instantly the vessel, which hitherto had lain like a log upon the waters, began to move; with a fresh crew, and another steersman, and a fast rising breeze, she sped at once upon her course; and from her annual voyage returned to each succeeding assembly, bringing better news and more ample treasures for the great cause on which they had sent her forth. From 1828 till 1834 the committee had existed and had done nothing; within one year thereafter, at the assembly of 1835, Dr. Chalmers found himself in a position, in his report, to say, "The result on the whole has been satisfactory; the whole contributions, in collections, donations, and individual subscriptions, to the *general* fund for church accommodation amounts in this, the first year of its (new) existence, to £15,167, 12*s.* 8½*d.* * * But this is not the whole pecuniary result which we have to make known to you, and not even the most prosperous and best part of it. In reply to our application for aid, we were often told of the home ecclesiastical wants which stood in the way of a remittance to the general fund; and whenever the *local* exertion and the *general* contribution came into conflict with each other, it has been our uniform policy to encourage the former in preference to the latter,—assured that, in every instance where an interest was once awakened for the necessities of any immediate neighbourhood, there would not only be a far more intense feeling, but a far more productive liberality than could be expected in favour of the larger but more distant operations of a central or metropolitan board. The effect has justified our anticipations, and we now proceed to enumerate, in geographical order, beginning with the north of Scotland, the additional places of worship in connection with the establishment, built or building, subscribed for, or being subscribed for, in various parts of the country." This general announcement was followed

1834 to 1838.

The result of his first year's labours.

1834 to 1838. up by the long statistical array of parishes, places of worship, number of church sittings and of pounds sterling which the triumphant and rejoicing convener had it already in his power to record as the trophies of his first year's toil. The assembly listened with feelings of wonder and gratitude as the seemingly interminable roll proceeded, and which Dr. Chalmers thus summed up at its close: "It will thus be observed that the number of new places of worship completed or now in preparation is sixty-four; that the whole sum subscribed for distinct *local* erections is £55,021,7*s.* 9*d.*, and that, if to this be added the *general* fund, as far as it stands disengaged from this, we have to report a grand total of £66,326, 1*s.* 11¾*d.*" Amid the acclamations with which this memorable report was received, it might have both amused and instructed the curious on-looker to study the countenances of some of the former leaders of the assembly. These were victories on a field with which they were totally unacquainted, victories which they hardly knew whether to welcome or deplore. Sixty-four new churches, all of them strangers to the blessings of the cherished law of patronage, their congregations destined to choose their ministers by their own free voice,—and these ministers, all of them, by the chapel act, entitled to take their places in the courts of the church,—what hope was there for moderatism under such a condition of things! Reflections of this kind doubtless robbed Dr. Chalmers of a good many cheers; they would have deprived him, indeed, in all probability, of very many more, had not certain other considerations operated at that time in his favour. The establishment was threatened by external foes; the numerous and active supporters of voluntary church principles were still plying all their energies to effect a separation of church and state, and not a few in consequence, even of those who had no sympathy with the recent ecclesiastical reforms, were still well enough

Sixty-four new Churches built or building in one year.

The divided feeling with which the moderate party heard of these triumphs.

CHAP. VII.

pleased with the unequivocal indication which Dr. Chalmers' report contained of the immense additional strength which the cause of the establishment had now acquired. 1834 to 1838.

Without the reforms of 1834, not even Dr. Chalmers could have succeeded in this movement.

Without the reforms in question, not even Dr. Chalmers could have made much way in the extension of the church. If any would dispute this statement, they are bound at least to explain upon some other principle the remarkable coincidence which the foregoing narrative exhibits. That illustrious man did not become a convert to the cause of church extension in 1834. His heart had been set upon it for twenty years before. He had expended upon it both his noblest eloquence and his noblest efforts at a much earlier period; not indeed by any means in vain, as has been already noticed, but yet without meeting with any sensible response from the public mind. Whence came it that the same path in which hitherto he had encountered hardly anything but obstacles and discouragements, had now become all at once a scene of such unexampled successes!

It is not intended, indeed, to ascribe this remarkable change to the exclusive influence of any single circumstance. Great movements are commonly the result of a complex cause. Something was due, undoubtedly, to that stimulus to exertion, which the friends of the established church had received from the attack of its opponents,—and still more to that growing interest in the religious improvement of the people, which Dr. Chalmers himself had done so much to enlighten and increase,—but these forces would have been impotent without the concurring and contemporaneous impulse which emanated from the assembly of 1834. Facts can be adduced which render this statement indisputable. The church-building society of Glasgow, which took its rise in the spring of that year, and which may be said to have struck the key-note of the whole movement that followed, proceeded, from the very first, on the abolition of the chapel

Facts which prove the connection of the reforms of 1834 with the subsequent triumphs of Church extension.

1834 to 1838. of ease system as a *sine qua non*. It had even then become certain, that at the approaching assembly this *desideratum* would be secured under the ascendency of an evangelical majority: and the society proceeded upon it accordingly by the very title they assumed, as a society for building additional "parochial churches" in Glasgow. Another circumstance may be noticed as conclusive of the same thing. According to the then existing law, when a parish was subdivided, the patronage of any parochial church erected within the territory of the original parish fell to the patron of that original parish. This was a formidable difficulty in the way of church extension, on the plan of the Glasgow society, and which was the only plan the public were disposed to support. Men would not give their money to erect and maintain new churches which the caprice or tyranny of a patron, living perhaps in London or Paris, might render useless. To escape from the disadvantages and incongruities of the chapel of ease system, at the expense of falling under the yoke of church patronage, would be to make an exchange of very questionable utility. To get rid of this hinderance was felt, therefore, on all hands, to be indispensable. And accordingly, at the same time that the Glasgow society were raising funds and making all their preparations for a great effort in the church extension cause, a bill was, through their influence, brought into parliament to alter the law of patronage in the particular point above alluded to, and that bill had already passed the house of commons, and was in progress through the house of peers at the moment when the assembly of 1834 convened. While the supreme court of the church was taking one grand difficulty out of the way, by abolishing chapels of ease, and placing them on the footing of parochial churches,—the legislature, the supreme power of the state, was removing another difficulty, by exempting these new parochial churches,

The Glasgow Church Building Society, and Colquhoun's act.

CHAP. VII. and all others erected by similar means, from the operation of the law of patronage. This act of the legislature was completed shortly after the assembly rose, and ran in the following singularly explicit terms;*—"Be it enacted, &c., &c.,—that where any church, chapel, or other place of worship, in that part of Great Britain called Scotland, built, or acquired, and endowed by voluntary contribution, shall be erected into a parochial church, either as an additional church within a parish already provided with a parochial church, or as the church of a separate parish to be erected out of the part or parts of any existing parish or parishes, whether the same be established and erected *quoad spiritualia*, by AUTHORITY OF THE CHURCH COURTS OF THE ESTABLISHED CHURCH OF SCOTLAND, or also *quoad temporalia*, by authority of the commissioners of the court of teinds, neither the king's majesty, nor any private person, nor any body politic or corporate, having right to the patronage of the parish or parishes within which such additional churches shall be established, or out of which such new parishes shall be erected, shall have any claim, right, or title whatsoever to the patronage of such newly established churches, or newly erected parishes: but the right of presenting ministers thereto, shall be exercised according to the manner and subject to the conditions which shall be provided or sanctioned by the church courts establishing the said churches, —or where new parishes shall be erected, or shall be prescribed and regulated by the *said church courts erecting such new parishes into separate spiritual jurisdictions*, subject always to such alterations as shall be made by the said courts, according to the laws of the church, from time to time."

1834 to 1838.

The terms of Colquhoun's act: passed in 1834.

This act exempted the new Churches from the operation of the law of patronage.

This act of the state completed that preparatory process

* 4 and 5 Will. IV. c. 5—commonly called Colquhoun's act.

1834 to 1838. which preceded and paved the way for those efforts, the signal success of which Dr. Chalmers had the high gratification of announcing, as already described, to the assembly of the following year. And the circumstance that even the most zealous, and the most liberal church extensionists did not, and would not advance a single step in their noble enterprize, till these important preliminaries had been all definitively adjusted and arranged, affords decisive proof that those ecclesiastical reforms which distinguished the assembly of 1834, are entitled to claim the parentage of the church extension scheme. They were the main source both of the people's confidence, and of the people's liberality.*

The cause of Church extension goes on triumphing from year to year

Nor was it a mere temporary burst of generosity and zeal which had now broken forth. Year after year it continued to flow with unabating force. At the assembly of 1836, Dr. Chalmers reported as the result of his committee's operations during the preceding twelvemonths, twenty-six additional churches as being in progress, and money contributed to the extent of £32,359, 12*s.* 5¾*d.*; at the assembly of 1837, sixty-seven churches, and £59,311, 6*s.* 0*d.*; and at the assembly of 1838, thirty-two churches, and £48,683, 1*s.* 4¾*d.* It thus appears, that during the four years, immediately subsequent to the reforming assembly of 1834, and to the ascendency of the evangelical party in the councils of the church, no fewer than 187 additional churches were built, or in progress within the pale of the establishment, a number exactly three times greater than had come into existence during the entire hundred years that went before,—the century of the reign of moderatism. The amount of money contributed to the church extension fund,

* These additional facts regarding the origin of the Glasgow church-building society, and the terms and conditions on which its members subscribed their money, will be found to throw a flood of light on that decision of the house of lords, of date February 1849, adverted to in a foot-note, p. 293.

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during these four memorable years, was no less than the munificent sum of £205,930, 14*s.* 10½*d.*

Magnificent sum raised during the first four years of Dr. Chalmers' convenership.

Times still more recent, and events still more momentous, have familiarized men with a scale of liberality, in support of religious objects and institutions that may weaken somewhat the impression which the amount now named would otherwise have made. In those days, however, that sum was a moral wonder, the existence of which well entitled Dr. Chalmers, when he announced it in his report to the assembly of 1838, to exclaim, "What other single scheme of christian benevolence in this country ever commanded so noble an income as one of £50,000 per annum! On what other ground, but a deep-rooted sympathy for the present wants of our densely crowded cities, and over peopled country parishes, and the persuasion that no likelier method than the multiplication of our *parochial* churches can be devised for accomplishing this moral regeneration, can the fact be accounted for that, year after year, so splendid an offering is laid on the altar of public liberality? Had the cause of church extension been based on a delusion, that delusion would have been dissipated long ago. Had the operations of the committee not harmonized with the sentiments of the country at large, they never would have commanded an amount and continuance of pecuniary support, altogether without precedent in the history of christian beneficence in this part of the British empire. Nor is there any premonitory symptom yet of declining fervour in the cause among the people of Scotland. Their heart beats as warmly as ever, and with as healthy and vigorous a pulse towards the church of their fathers: and more than one intimation is already before the committee, which prompts the well-grounded anticipation that the coming year will be as encouraging as the past, or even still more abundantly."

Dr. Chalmers' report for 1838.

Intimates that the cause continues to prosper as much as ever.

1834 to 1838. It seemed indeed as if at length, under a reforming and evangelical establishment, the inestimable blessings of religion were about to be carried to the homes of even the poorest and most destitute in the land; and had the government of the country come timeously and heartily to the church's aid, Scotland might have shown again what a scripturally-constituted and well-wrought church establishment can do for the well-being of a nation. Valuable and influential as the new churches were, both they and the former chapels of ease laboured under the serious disadvantage of being unendowed. Left in consequence to depend for support on the pew-rents and other contributions of those who frequented them, a barrier existed to their full efficiency in those very districts where, owing to the poverty and irreligion of the people, they were most urgently required. Men have no natural appetite for spiritual things. They do not resort to the house of God as they resort to the market-place, under the spontaneous impulse of desires which they are eager to indulge. It is not enough, therefore, that in the midst of an ungodly neighbourhood a church has been reared and opened. Its minister must go forth according to the aggressive system of Dr. Chalmers, accompanied by all the other christian agencies he can bring to bear upon the surrounding population, to allure them towards it. And to enable him to do this both freely and perseveringly, it is obviously indispensable, that to some extent at least his temporal subsistence be derived from an external source. Without this he can neither deal with those whom he seeks to reclaim in a character sufficiently independent, nor can he offer sufficient facilities to the poorer and more careless to attend on his ministrations. It is on these grounds the best argument for church endowments rests.

Cheering prospects which seemed to be opening upon the Church.

To leave the demand to regulate the supply—not safe in the case of true religion.

Importance of endowments for the Churches of the poorer districts.

To a national church, charged with the responsibility of

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at least offering to the entire body of the people the instructions and ordinances of religion, the duty of the state would seem to be, to afford such assistance out of the public funds as might be requisite for that end. A claim of this nature the church had been making for some time without success, when at length, in 1835, it was admitted by the government to be at least deserving of consideration; for in the course of that year a royal commission was issued to inquire "into the opportunities of religious worship and means of religious instruction, and the pastoral superintendence afforded to the people of Scotland; and how far these were of avail for the religious and moral improvement of the poor and the working-classes, and with that view to obtain information respecting their stated attendance in places of public worship, and their actual connection with any religious denomination: and to inquire what funds were then or might thereafter be available for the purpose of the established church of Scotland, and to report from time to time, that such remedies might be applied to any existing evils, as parliament might think fit." It is abundantly well known that the inquiries of this commission were not conducted upon the principle of magnifying the church's case. Everything was done, on the part of those who were unfriendly to the establishment, to make the spiritual destitution existing in the community appear as small as possible: and it is stating it moderately to say, that the efforts made for this purpose were not discouraged by the commission. And yet, after all, this was the deplorable result which their report exhibited; first, that in the single city of Edinburgh "there is a large number of persons capable of attending who habitually absent themselves from public worship:" and that this number could "not be less than from 40,000 to 50,000, according to the age at which children may be supposed capable of attending

Royal commission issued in 1836, to inquire into religious destitution in Scotland.

The commission not disposed to exaggerate the Church's case.

Report of the commission as to the religious destitution of Edinburgh and Glasgow.

1834 to 1838. church." And next, that in Glasgow "upwards of 66,000, exclusive of children under ten years of age, are not in the habit of attending public worship, in the sense in which that term is understood by the ministers of the several congregations," and that, "after making allowance for old and infirm persons, and those who may necessarily be absent, that number cannot be stated at less than 55,000." These were the sunken and degraded masses upon whose pitiable condition,—pitiable both for time and eternity,—Dr. Chalmers had striven, many years before, to turn the consideration of men in power. No wonder that now, when their own officers had at length laid, in part at least, the facts of the case before them, he looked with both eagerness and confidence for their immediate interposition.

The commission had been issued in consequence of the urgency of the Church's entreaties on the subject.

A deputation, headed by himself, had been sent by the assembly to London in 1835, to solicit endowments for the new churches which his great scheme of church extension was fast summoning into existence; but the issuing of the royal commission of inquiry was all the answer they obtained. And when at length, after the lapse of two years, the blue books of the commission had been laid on the tables of parliament, certifying the existence, in the two chief cities of Scotland, of a spiritual destitution so extensive and alarming as that which the foregoing quotations describe, the call upon the government was once more renewed by the church. It was, however, renewed in vain. Something was, indeed, proposed by government to be done. A scheme was talked of, according to which what are called the bishop's teinds,—the teinds attached in former times to the Scottish bishoprics, and which had lapsed to the crown on the abolition of prelacy,—might be appropriated in providing so far for the exigencies of the church. Another part of this scheme was to alter the law regarding the un-

The scheme of Church endowments proposed by the government.

CHAP. VII. exhausted teinds,* so as to relax those restrictions, described in a preceding chapter, and the operation of which, as there stated, had been to render these teinds practically inaccessible for the purposes of church extension. The project was surrounded by so many insuperable difficulties, and was altogether so unsuited to the case, that most men were tempted to think the government never meant it as anything more than one of those ingenious devices to which politicians sometimes have recourse, in order to put an inconvenient question aside. This, at least, was evidently the mind of an illustrious duke, with whom the church's deputation had occasion to confer regarding it. "Gentlemen," said he, "you will get nothing. That is my opinion. I am sorry for it; but so you will find it. You have two parties against you—the radicals, with Lord Brougham at their head; and the government, who are really as much opposed to you as the radicals. I believe," he said, "they will not be able,—or, at least, it will be with great difficulty if they succeed,—to carry through the grant of the bishops' teinds. They are part of the consolidated fund; they will need an act to get them out; and I doubt if they will obtain it from the commons. The other part of their measure, altering the law as to the unexhausted teinds, and which affects the rights of property, I think they will get through the lower house. There is some robbery to be committed by that part of the plan," he said, with a sarcastic smile, "and that is a great recommendation to any measure in present times. But my firm conviction is," he again repeated, "that you will get nothing. The real question which now divides this country, and which truly

1834 to 1838.

The Duke of Wellington's opinion of the scheme, and of the prospects of the Church.

* That is, the surplus tithe remaining in possession of the heritors, or proprietors of land, and intended by law to be available, under authority of the court of teinds, for the purposes of the church.

1834 to 1838.

divides the house of commons, is just this,—church, or no church. People talk of the war in Spain and the Canada question; but all that is of little moment. The real question is, church, or no church: and the majority of the house of commons,—a small majority, it is true, but still a majority,—are practically against it. It is a melancholy state of things, but such appears to me to be the actual position in which we now stand."*

The views of public men, and especially of those belonging to the liberal school of politics, have undergone, within the last ten years, so great a change on the whole question of church endowments, it seems already difficult to believe that, in 1838, matters could possibly have been in the position above described. Now-a-days, in place of resisting all endowments for religious purposes, the tendency is rather to offer them indiscriminately to every ecclesiastical body that will accept them. Instead of refusing the claims of existing establishments, or threatening to take from them the endowments they at present possess, the ambition of all parties in the state seems now to be to call a new establishment into existence, by endowing, almost against its will, the Irish branch of the church of Rome. The same liberalism which formerly would have nothing to do with religion of any kind, has become quite disposed to have to do with religion of every kind, or at least of every kind that will be subservient to political uses or ends. Perhaps, after all, did an evangelical establishment,—bent upon executing its divine commission without respect of persons, and crossing often in its course of straightforward and fearless integrity, the crooked schemes of time-serving politicians,—exist at this moment in Scotland, it would find as much and as vehement opposition to a demand for

The views of public men, and especially of liberal politicians, much changed in regard to such questions since 1838.

Instead of refusing Church endowments, the State now willing to endow all parties, and especially the Church of Rome.

* From MS. notes in possession of the author, who acted as secretary to the deputation.

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additional endowments, as the church of Scotland actually encountered ten years ago. But, however this may be, there can be no doubt in the mind of any one acquainted with the state of parties in parliament, at the period above alluded to, that the statement given to the deputation from the church of Scotland upon that subject, was strictly and literally true. And the fact, that in the judgment of one so singularly sagacious as the Duke of Wellington, the church establishments of the country had then so little to look for at the hands of the legislature, serves only the more clearly to show both the wisdom and the necessity of that course which the church of Scotland had been for some years pursuing, in throwing herself more and more upon the affections and support of the people. Even the church of England, that now seems so secure, was not insensible to the danger which then threatened her. It was in the spring of that year that Dr. Chalmers delivered, in London, his well-known lectures on church establishments. And it is a circumstance not undeserving of notice, that those views of the church's independence of secular control, in all matters spiritual, which have been traced in the earlier chapters of this work, and upon which she had proceeded in adopting the measures of 1834, were the very views which Dr. Chalmers proclaimed in London, not only without offence, but amid thunders of applause. It was in the presence of one of the most influential audiences that ever assembled in the metropolis, including many of the most distinguished members of both houses of parliament, and of the leading prelates of the church of England, the Scottish presbyterian minister spoke as follows:—"There is to each of the members of the church of Scotland an independent voice from within, and from without there is no power or authority whatever in matters ecclesiastical. They who feel dislike to an establishment, do so in general,

The opposition to endowments in 1838, proved how wisely the Church had acted in strengthening herself among her own people.

Dr. Chalmers' exposition of the spiritual independence of the Church of Scotland, in his London lectures.

1834 to 1838. because of their recoil from all contact and communication with the state. We have no other communication with the state than that of being maintained by it; after which, we are left to regulate the proceedings of our great home mission with all the purity, and the piety, and the independence of any missionary board. We are exposed to nothing from without, which can violate the sanctity of the apostolical character, if ourselves do not violate it. In things ecclesiastical, we decide all. Some of these things may be done wrong; but still, they are our majorities which do it. They are not—they cannot be forced upon us from without. We own no head of the church but the Lord Jesus Christ, —whatever is done ecclesiastically, is done by our ministers acting in His name, and in perfect submission to His authority. Implicated as the church and the state are imagined to be, they are not so implicated as that, without the concurrence of the ecclesiastical courts, a full and final effect can be given to any proceeding by which the good of Christianity, and the religion of our people may be affected. There is not a clerical appointment which can take place in any one of our parishes, till we have sustained it. Even the law of patronage, right or wrong, is in force, not by the power of the state, but by the permission of the church, and with all its fancied omnipotence, has no other basis than that of our majorities to rest upon. It should never be forgotten that, in things ecclesiastical, the highest power of our church is amenable to no higher power on earth for its decisions. It can exclude, it can deprive, it can depose at pleasure. External force might make an obnoxious individual the holder of a benefice; but there is no external force in these realms that could make him a minister of the church of Scotland. There is nothing which the state can do to our independent and indestructible church, but strip her of its temporalities. *Nec tamen consumebatur;* she

His view of the kind of connection existing between Church and State in Scotland.

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would remain a church notwithstanding,—as strong as ever in the props of her own moral and inherent greatness. And though shrivelled in all her dimensions by the moral injury inflicted on many thousands of families, she would be at least as strong as ever in the reverence of her country's population. She was as much a church in her days of suffering, as in her days of outward security and triumph, —when a wandering outcast, with nothing but the mountain breezes to play around her, and nought but the caves of the earth to shelter her,—as now, when admitted to the bowers of an establishment. The magistrate might withdraw his protection, and she cease to be an establishment any longer,—but, in all the high matters of sacred and spiritual jurisdiction, she would be the same as before. With or without an establishment, she, in these, is the unfettered mistress of her doings. The king, by himself or by his representative, might be the spectator of our proceedings; but what Lord Chatham said of the poor man's house, is true in all its parts of the church to which I have the honour to belong.—'In England, every man's house is his castle,'—not that it is surrounded with walls and battlements. It may be a straw-built shed. Every wind of heaven may whistle round it,—every element of heaven may enter it,—but the king cannot, the king dare not."

1834 to 1838.

The memorable words of Lord Chatham applied by Dr. Chalmers to the Church of Scotland.

In regard to this brilliant passage there is a fact not undeserving of notice. Attempts have been often made to diminish the value of that testimony to the truth and righteousness of the cause of the church's spiritual liberty that was derived from the adhesion of Dr. Chalmers to the party who so resolutely maintained it in the ten years' conflict. It has been said, it is to be hoped in ignorance, that in the beginning of that conflict he had no sympathy with the views of those with whom he was outwardly associated; that the influence and the urgency of youthful zealots first

The assertion that Dr. Chalmers acquired his spiritual independence views late in the ten years' conflict.

1834 to 1838. drew him into the struggle, and afterwards drove him on, overbearing his own better judgment and his own juster views! It will not be denied that the ground taken by the church against the courts of law in the disruption controversy was never, at any period of the contest, more broadly stated than in the noble paragraph cited above. And yet, with the single exception of the reference, at its close, to the striking and memorable words of Lord Chatham, the entire passage, *verbatim et literatim*, is taken from a sermon "on religious establishments, preached by the Rev. Dr. Chalmers, in St. George's church, Edinburgh, before the society for the daughters of the clergy, in May, 1829!" So little had he to learn from others concerning the fundamental principle of the disruption controversy, that five years before the controversy commenced that principle was as fully before his mind, and its magnitude was as thoroughly realized, as when he left the establishment for its sake.

He had published these views as early as 1829.

It is not, however, for the purpose of refuting a very silly story that this passage from the London lectures has been adduced. It has been brought forward chiefly in connection with the remarks of the Duke of Wellington, as to the danger which at that time threatened even the English church establishment. Nothing but a conviction of the existence of such dangers could have brought nine bishops at once to listen to a presbyterian minister defending the connection of church and state; and there was but one theory of that connection which Dr. Chalmers would undertake to vindicate, the theory that had been realized in the church of Scotland. There seemed to be nothing monstrous in that theory then; conservative peers and statesmen could hear it propounded with the utmost complacency, because in an hour of peril it proved by far the most effective argument against those who were striving to do all religious establishments away. Posterity will not fail to

There seemed to be nothing monstrous in these views when Dr. C propouuded them in his London lectures.

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mark that, when the danger had disappeared, the very same individuals concurred in 1843 in driving Dr. Chalmers from his place, and in rending the church to which he belonged asunder from the state, rather than sanction the very views which they had themselves applauded to the echo in 1838. 1834 to 1838.

The glorious opportunity that was given to the rulers of the kingdom to bless the people.

Never, perhaps, did God, in His providence offer to men in power a more glorious opportunity of blessing their country than, on the occasion in question, was presented to the rulers of this land. Here was a great religious institution, strong in the historical recollections and hereditary attachments of the people; and stronger still in the scriptural purity of its faith, in the reviving warmth of its evangelical spirit, in the popular character of its free constitution, in the earnestness of its desires, and in the unprecedented vigour of its efforts and liberality of its contributions, for the public good. If ever that preserving salt, which a living christianity alone supplies, was to be lodged in the very heart, and in the lowest depths of those corrupting masses that were fast accumulating on the ground floor of society, and are now so fearfully endangering the stability of the whole social edifice, it was by such means and agencies as the church of Scotland, led on by Dr. Chalmers, was multiplying on every hand; and which it needed only a very limited assistance from the state to have multiplied still more, and so as to have made them co-extensive with the spiritual destitution of this northern kingdom. If the church, through the generous kindness of her own members, at her own expense, reared the places of worship, the state need not have grudged the little help that was necessary, in order to bring their services within the reach of the humblest and poorest of the people. "We seek by it," said the eloquent expounder of that claim, "no increase to any of our livings; and as we have no pluralities, each of our new churches must be occupied by a distinct and addi-

The attitude in which Dr. C. and the church extensionists approached the government.

1834 to 1838.

tional ecclesiastic. Let the government themselves determine what his revenue ought to be; and then, for every shilling they contribute thereto, by a grant from the treasury, let that shilling go not in augmentation to him, but in deduction from the seat-rents, which we are at present forced to demand from the general population. We repeat, then, that the *terminus ad quem* of our proposition is not any personal object of our own, but the public object of a cheap christian education to the community at large. We knock at the door of government, not in the crouching attitude of suppliants for ourselves, but in the firm and high attitude of donors—with two hundred thousand pounds, or a hundred and eighty new churches as an offering to a cause of highest patriotism, and saying—'This is our contribution—What is yours?' It is not true, as represented, that we stand before them as so many fawning and pampered ecclesiastics, bent on the further aggrandizement of ourselves or of our order. We appear for the families of our peasants, and our artizans, and our men of handicraft and hard labour. We are the tribunes of the people, the representatives of that class to whom law has given no other representatives of their own,—of the unfranchised multitude who are without a vote, and without a voice in the house of commons. Our sacred object is the moral well-being of that mighty host who swarm and overspread the ground floor of the fabric of our commonwealth; and after the mists of prejudice and misconception have cleared away, our ultimate hope of success, under heaven, is in the inherent and essential popularity of our cause."*

The church extensionists were donors, not suppliants.

Chiefly, it is believed, under the influence of that hostile political pressure, to which the Duke of Wellington alluded, as being at the time so strong against religious establishments in general, the government did nothing. Their own

The application to government for church endowments tailed.

* Chalmers on *Church Establishments*, pp. 109, 110.

CHAP. VII. proposal, limited and defective as it was, was allowed to drop, and the church was left to prosecute her great enterprize unsupported and alone. And nothing, assuredly, but the immense hold which the reforming policy and the revived evangelism of the church had given her of the affections of her people, could have enabled her to achieve, unaided, those triumphs in the cause of church extension which have been already described, and which, in the face of all the discouragements encountered on the side of the government, went on increasing every day. 1834 to 1838

The fruits of evangelical ascendency were not limited to the home field.

Nor was it by any means in the home department alone that the fruits of evangelical ascendency in the management of church affairs appeared. The reader, doubtless, has not forgotten the anti-missionary assembly of 1796. It was natural, and indeed inevitable, that with the increasing numbers, and influence of evangelical men in the courts of the church, a better state of feeling would begin to show itself in the proceedings of the assembly, even before the direction of its business had passed into their hands. Five or six years anterior to that period, such was already the reaction in favour of those views, for which Dr. Erskine and his little band of evangelical supporters had struggled in vain thirty years before, that a proposal to enter on the work of foreign missions now received the unanimous sanction of the general assembly. At the head of the committee which was accordingly appointed, was placed the late Rev. Dr. Inglis, one of the ministers of Edinburgh. He was not perhaps the individual whom it would have occurred to an onlooker to propose for that office. His cold and somewhat rigid character, and the prominent place he had long occupied in the leadership of a party never known for zeal in missionary schemes, would probably have led any one who was in quest of a suitable director for this new enterprize to look elsewhere. And

A missionary spirit had been growing in the Church.

1834 to 1838. yet, Dr. Inglis had many qualities which fitted him to undertake this task with eminent advantage to the cause. Possessed of a powerful intellect, of uncommon sagacity, and of remarkable talents for business, the practical arrangements necessary for establishing the mission could not well have been in safer hands. And if awanting somewhat in that religious earnestness, and depth of devotional feeling, so necessary to kindle and keep alive the public sympathy in such a cause, he was at least sincerely and increasingly interested in its prosperity. Not mingling much, in his later years, in the proceedings of the party to which he continued to belong, it is believed he found in his new office more congenial employment. He died before the disruption controversy began, and it is therefore useless to conjecture what part he would have taken in it had he lived. In his able "vindication of ecclesiastical establishments," he has certainly laid down principles which no ingenuity can reconcile with those proceedings on the part of the civil courts which his party sanctioned. "The kingdom of Christ," said Dr. Inglis, "is not only spiritual, but independent. No earthly government has a right to overrule or control it." * * * "If any civil government, under pretence of providing for the welfare of Christ's spiritual kingdom, shall usurp its peculiar and appropriate jurisdiction,—if a civil government shall attempt to direct the appropriate concerns of the visible church of Christ, by either superseding, or controlling its separate and independent power for the regulation of its own spiritual and inherent interests,—if a civil government shall pretend to regulate the administration of its ordinances, or to pronounce judgment on the qualifications of its ministers, that government is so far an adversary of Christ and of His cause in the world."* There is enough, in these few

Character of the Rev. Dr. Inglis, the first Convener of the Committee on Foreign Missions.

Dr. Inglis' "Vindication of Ecclesiastical Establishments."

Maintains the doctrine that the Church's independence in matters spiritual is of divine right.

* *Vindication of Ecclesiastical Establishments*, by John Inglis, D.D., pp. 102, 103.

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words, to vindicate everything essential in that course, which, in the conflict between the civil and ecclesiastical courts, the evangelical party pursued. 1834 to 1838

Without in the least disparaging the support which, under the management of Dr. Inglis, was given by many members of the moderate party to the foreign missions scheme, it will not be questioned by any one at all acquainted with the subject, that its life and strength came from the other side. Undeniable it is that this scheme, in common with all the rest, acquired fresh force from and after the assembly of 1834. During the year preceding that assembly, the revenue of the foreign missions scheme was £2,736. In 1838, it had risen to £7,589. It would be unreasonable and unjust, however, not to allow that for this rapidly increasing liberality one important and influential cause was to be found in the presence, at the period in question, of that most distinguished and devoted missionary the Rev. Dr. Duff. It was to him the founding of the church's now well-known India mission had been intrusted. Compelled to seek in the climate of his native Scotland, the health which jungle fever and his own incessant toils on the banks of the Ganges had already nearly destroyed, he made his appearance in the general assembly of 1835, and the speech which on that occasion he delivered, and the sensation which it produced, none who were present can ever forget. What a contrast to those days of cold and lifeless indifference, or rather of semi-infidel antipathy to the missionary cause, when in that same supreme court of the church of Scotland the obligation to send the gospel to the heathen had been all but denied! Less than forty years divided 1796 from 1835, but the change which during that interval the assembly had undergone, amounted to a revolution. Not only had the representatives and successors of Dr. Erskine's minority become the prevailing party in the church, but even moderatism itself had learned to speak

Increasing prosperity of the missionary cause subsequently to 1834.

Contrast as to the missionary spirit, between the Assemblies of 1796 and 1835.

1834 to 1838. with another tongue. If it had still its Hamiltons and Carlyles, they were so far at least affected by the new influences that were abroad, as to consent to swim with a current whose force they could no longer stem. Dead, indeed, must that heart have been that did not thrill with strong emotion while the eloquent and devoted missionary, fresh from those scenes of moral and spiritual desolation which overspread the vast continent of India, thundered in the ears of the assembly this trumpet call to come to the help of the Lord, to the help of the Lord against the mighty.

The Rev. Dr. Duff's speech in the Assembly of 1835.

"Ah, long, too long has India been a theme for the visions of poets and the dreams of romance. Too long has it been enshrined in the sparkling bubbles of a vapoury sentimentalism. One's heart is, indeed, sickened with the eternal song of its balmy skies and voluptuous gales,—its golden dews and pageantry of blossoms,—its fields of paradise and bowers

Intwining amaranthine flowers,—

its blaze of suns and torrents of eternal light. One's heart is sickened with this eternal song, when above we behold nought but the spiritual gloom of a gathering tempest relieved by the lightning glance of the Almighty's indignation,—around a waste moral wilderness, where 'all life dies and death lives,'—and underneath one vast catacomb of immortal souls perishing for lack of knowledge. Let us arise and resolve that henceforward these 'climes of the sun' shall not be viewed merely as a storehouse of flowers for poetry, and figures for rhetoric, and bold strokes for oratory; but shall become the climes of a better sun, even the Sun of Righteousness,—the nursery of plants of renown that shall bloom and blossom in the regions of immortality. Let us arise and revive the genius of the olden time; let us revive the spirit of our forefathers.

His appeal on behalf of India.

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Like them let us unsheath the sword of the Spirit,—unfurl the banner of the cross,—sound the gospel trump of jubilee. Like them let us enter into a solemn league and covenant before our God, in behalf of that benighted land, that we shall not rest till the voice of praise and thanksgiving arise in daily orisons from its coral strands—roll over its fertile plains—resound from its smiling valleys—and re-echo from its everlasting hills. Thus shall it be proven, that the church of Scotland, though 'poor can make many rich,' being herself replenished from 'the fulness of the Godhead,' —that the church of Scotland, though powerless as regards carnal designs and worldly policies, has got the divine power of bringing many sons into glory,—of calling a spiritual progeny from afar, numerous as the drops of dew in the morning, and resplendent with the shining of the Sun of Righteousness,—a noble company of ransomed multitudes that shall hail you in the realms of day, and crown you with the spoils of victory, and sit on thrones, and live and reign with you amid the splendours of an unclouded universe."

1834 to 1838.

The amount of blessing the Church of Scotland, though poor, may confer on India.

When the pale, exhausted, but still burning, impassioned missionary, concluding with these words an address of unexampled pathos and power, added this solemn prayer: "May God hasten the day and put it into the heart of every one present, to engage in the glorious work of realizing it," —the heart, if not the lips, of the entire assembly uttered a fervent amen! It is difficult to refer now, at this distance of time, to the impression which that address produced, without using what may seem like the language of exaggeration. A sentence from one of the periodicals of the year when it occurred will not be liable to the same suspicion.— "During this intensely interesting and eloquent address," says the *Presbyterian Review* of July, 1835, "the whole house was absorbed in one feeling exquisite even to pain,

Account given in the Presbyterian Review of July 1835, of the impression made by Dr. Duff's speech.

1834 to 1838. tears ran down almost every cheek, and with a grateful sense of the blessings bestowed on the exertions of our mission and a fervent hope of the glorious triumphs that seemed to await it, was mingled an ardent outpouring of love and admiration towards the noble missionary who seemed rushing to spend and to be spent in the great cause in which his labours had formed a new era, and who now, with scarce recovered strength, so eloquently strove to inspire his countrymen with somewhat of his own devoted enthusiasm."

Chalmers and Duff—the one pleading for the heathen at home, the other for the heathen abroad.

It was indeed a token that better days had come for the church of Scotland when Chalmers and Duff were contemporaneously making the whole country resound with their noble pleadings,—the one for the heathen at home, the other for the heathen abroad. And the fact that the outburst of Christian liberality with which their appeals were responded to and their efforts sustained, was ushered in and accompanied by those ecclesiastical reforms which have been already described, cannot fail to lend force to a conclusion which the whole history of the Scottish church confirms, that the evangelical and the reforming spirit were essentially one. The examples that have been already adduced of the church's practical efficiency, under evangelical management, are not the only ones that might be given. There was no part of the wide field of duty which it belongs to a church of Christ to cultivate, that did not now receive anxious and attentive consideration. What had been in progress before was prosecuted with augmented resources and energy, while much that had been hitherto neglected was taken up and cared for in a spirit altogether new. In 1836, measures were adopted for promoting, on a large scale, the religious interests of the presbyterian settlers in the colonies, by making the raising of funds and the providing of ministers for that work, a regular and

The measures adopted by the Assembly of 1836, for promoting the religious interests of Scottish settlers in the British colonies.

CHAP. VII. permanent department of the business of the church. The church had thus her hand at work in great and strictly missionary enterprizes among the outfield population of her own home territory, among her expatriated sons in the various colonial possessions of the empire, and among the multitudinous and idolatrous tribes of the east. The field of the church of Christ is the world, and the only section of that field on which it yet remained for the Scottish church to enter was that which is occupied by the lost sheep of the house of Israel. Up till this time no one Christian church, in its corporate character, had undertaken a mission to the Jews; but in the year 1838, the general assembly of the church of Scotland was enabled, by the grace of God, to take this reproach away. In that year, the venerable Dr. Keith, the modern apostle of the circumcision, accompanied by the heavenly-minded M'Cheyne, and his other estimable colleagues, were sent forth to gather tidings of God's ancient people, and to bear to them the unwonted news that the national Christian church of an ancient kingdom had turned her heart towards them. The immediate result was the founding of that mission to the Jews, which God has since so greatly honoured, and which continues in connection with the Free church of Scotland, in undiminished, or rather in growing, vigour and prosperity, at this hour.

1834 to 1838.

The mission to the Jews originated in 1838.

In addition to these great evangelistic movements, it would be improper to omit an allusion to what was doing at the same time in another kindred department,—that of the education of the people. In the system of the great men who founded the church of Scotland, the school was all along designed to have its place side by side with the church. To their enlightened representations and remonstrances upon this subject, incessantly and earnestly continued by their successors, is undoubtedly and exclusively to be ascribed the institution of the parochial schools of Scotland.

The efforts made in the cause of education.

1834 to 1838. Valuable as that institution was, the population had much outgrown it,—and school extension was as urgently needed as the extension of the church. It is due to the moderate party to state, that under their auspices, and a good many years before they ceased to have the direction of the church's affairs, they had originated a scheme for increasing the means of education, particularly in the highlands and islands. Over that scheme the late Rev. Dr. Baird, principal of the university of Edinburgh—a man of great kindness of heart —long and usefully presided; and to his great exertions in its behalf, it was largely indebted for that measure of success which it then enjoyed. It was not, however, the quantity merely, but the quality of education, which had fallen behind the exigencies of the age. Not only were the methods of instruction in many respects greatly defective, but the range of instruction was extremely limited. Normal schools, seminaries where the future teacher might be trained for his important and arduous profession, were altogether unknown. The prodigious improvement which has since been effected in the whole style and business of common education, was originated mainly by the late Rev. Dr. Andrew Thomson of Edinburgh. His favourite maxim was, that the schoolmaster is the school. To put life into the teacher,—to give him an adequate idea of the importance and the responsibilities of his office,—Dr. Thomson became a teacher himself; and his school, whether as taught by himself or by those who were trained under his auspices, and had caught his spirit, became the resort of the younger and more enterprizing teachers from all parts of the country, and gave the first impulse to that educational movement which ever since has continued to gather strength, and which is now telling with such force over the whole length and breadth of the kingdom.

Principal Baird's valuable services in this cause.

The quality of common education was as defective as the quantity.

Devotion of the Rev. Dr. Andrew Thomson to the cause of education.

In 1835, Dr. Baird's increasing infirmities disabled him

for the charge he had hitherto taken of the education scheme, and its management was soon after transferred to other hands. Both the report which was that year laid before the assembly, and the proceedings that were founded on it, bore unequivocal marks of that more vigorous management that was now at the helm of affairs. Instead of limiting itself to the consideration of what was requisite for the highlands and islands, as had been the practice heretofore, the report, given in by the Rev. Dr. Gordon, called the attention of the church to the original and more comprehensive object of the education scheme, and pointed out the lamentable amount of educational destitution which prevailed in the great cities and more populous districts of the lowlands. It further contained an elaborate argument for the erection of normal schools, and recommended that steps should be immediately taken to have this grand desideratum in the educational apparatus of the country supplied. Of this proposal, the late Rev. Dr. Welsh, then professor of church history in the university of Edinburgh, was both the author and the eloquent advocate. In moving the adoption of the report, he took occasion, when speaking of the defective style of education which prevailed in many of the existing schools, to bring out his views as to the only effectual remedy.—"The want of proper training in the teachers is the chief cause of the evil, and until there is some improvement in this respect, I do not expect to see any great advancement in the cause of education in Scotland. It is indeed astonishing that this defect should have been allowed to exist so long, and that in the highest and most difficult of all the arts that should be dispensed with, which is so vigorously and so properly enjoined in every other department. Yet so it is, that while divines, lawyers, physicians, merchants, nay, every particular craft and trade, in addition to the education common to all, enjoin some

The Education Report laid before the Assembly of 1835.

Proposal for the erection of Normal Schools.

Speech of the Rev. Dr. Welsh in favour of Normal Schools.

1834 to 1883. special training for their own separate branch, schoolmasters are exempted from this general rule. Here no professional training is required. When everything else fails, any man is ready-made for a schoolmaster. And yet, why should this be? * * * We would not trust our health, our fortune, our reputation, in the hands of men who had not specially fitted themselves for doing us justice in these separate particulars. In the humblest departments of life, all those who minister to our comfort or convenience, have made their rude preparatory efforts ere they could solicit our employment. And yet, we can allow the instruction of children to be committed to those who had never themselves enjoyed the benefit of any training, for the fulfilment of their important trust. Can anything be more glaring and melancholy than this inconsistency? We would shrink from the idea of placing a costly and delicate work of art with those who were ignorant of its value, or who had not learned to handle it. And yet, we can place the richest, the most delicate, the most complicated piece of mechanism, requiring the extremest skill to arrange its parts, to adjust its movements, to develope its relations, to preserve it uninjured,—we can risk the immortal soul in an unpractised, it may be in a clumsy and careless hand."

A Normal School in progress of erection in Glasgow, chiefly through the influence of Dr. Welsh and Mr. Stow.

Chiefly through the influence of Dr. Welsh and Mr. David Stow, steps were then already in progress for the erection of a normal school in the city of Glasgow. The assembly, in giving its judgment on the educational report, adverted to the fact with marked satisfaction, and recommended "the committee to encourage the establishment of similar institutions in Edinburgh, and other suitable places." The normal school at Glasgow was soon after completed, and both the extension and the improvement of education were carried forward from that time with redoubled energy and zeal. The amount contributed to promote the objects of

Income of the education scheme is double in 1838 what it was in 1834: and the aggregate income of all the schemes of the Church is fourteen times larger in 1838 than it was in 1834.

the assembly's committee in the year ending at the assembly of 1834, was £2121. The amount contributed in the year 1838, was £4753. In other words, the income of the committee had been considerably more than doubled under the new ecclesiastical management, and this, notwithstanding of the immense sums which had been annually raised, during the same period, for the extension of the church. Altogether the clear income of the schemes of the church had risen, in 1838–9, to the large sum of £69,412, being an amount about *fourteen times* greater than the income of 1833–4! Such a fact is surely indicative not merely of increased vigour in the conduct of the church's affairs, but of that increased acceptance and confidence which the church must now have enjoyed among the people. It is impossible that such results could have been obtained unless those measures and that management, from the date of whose introduction they began to appear, had been decidedly favourable to the practical efficiency of the church.

Ill effects which the enemies of the veto-law anticipated from its working.

In regard to the veto-law, many predictions had been confidently uttered by its opponents, as to the evils it was destined to produce. It would set patrons and people at war, and keep parishes, in consequence, without pastors for years. It would breed heats and divisions among the people themselves, and drive disappointed minorities out of the church altogether. It would tempt licentiates to adapt themselves to the tastes of the least educated portion of the people, in order to gain the support of the multitude, and thus be injurious both to the learning and the manners of the clergy. A few years, however, served to rebuke these dismal auguries. Within five years after the law had been put in force 150 parishes had fallen vacant, and out of the 150 ministers and licentiates presented to these vacant parishes only ten were vetoed. Of these ten vetoes, a large proportion occurred immediately after the law had been in-

These unfavourable anticipations contradicted by facts.

1834 to 1838. troduced, and before either patrons or people had come fully to understand its operation. In no single instance did a second veto occur during any one vacancy of a parish. These facts are decisive as to the discord and delay which the veto-law was expected to create. The anticipations of Dr. Chalmers were justified and realized. It wrought, as he finely expressed it, "by pressure, and not by collision." It told silently, but steadily, on the manner in which the patron exercised his initial right of presentation. It led him to have greater regard to the feelings and interests of the people of the vacant charge in making his selection, and it fell out, in consequence, that in fourteen out of every fifteen cases the people acquiesced in his choice, and his presentee was quietly, and to the satisfaction of all parties, settled in the parish. As to the danger that was threatened of offended minorities being driven, under the irritation of disappointment, to forsake the established church, it is enough to say that no such case occurred. And that while, during the five years now in question, upwards of 200 churches had been added to the establishment, hardly an additional place of worship had been built in any of the dissenting bodies. It remains only to notice the deteriorating influence which, it was affirmed, the law would be found to exert on the candidates for the ministry. Writing in reference to this alleged tendency of the veto-law, Dr. Chalmers, with five years' experience of its operation to regulate his conclusions, found himself in a situation not only to deny the allegation, but to carry the war into the enemy's country, by showing that the evil of which they complained was precisely the result which their own favourite system had too often produced. "Previous to the veto-law, in the days of absolute patronage, any client or dependent who had a sure hold on the influence of his superior,—as the son of a factor, or of a favourite tenant, or of a political

Its working fully realized the predictions of Dr. Chalmers.

Injurious influence which it was alleged the Veto-law would exert on candidates for the ministry.

CHAP. VII. 1834 to 1838.

Dr. Chalmers shows that the influence of the law had been highly beneficial.

adherent,—who could confidently reckon upon a living in the church, might, on the impulse of this worldly consideration alone, have entered on the studies of the profession, whether by a course of partial or regular attendance, and could at length realize the preferment which his heart was set upon. This will not now be done so easily, with the fear of the veto before their eyes. And, accordingly, we doubt not there are many who, rather than encounter the hazard of being vetoed at the termination of their academical career, have, very wisely, taken the matter into their own hands, and put the veto on themselves at the commencement of it. * * * Altogether, the effect will be, or rather the effect *is*, a generation of licentiates of more devoted principle and of loftier talent than heretofore: and we again appeal to the observation of all Scotland if, both in regard to the work of the pulpit on Sabbath, and the work of the parish throughout the week, this effect has not begun to be palpably realized. The fact which cannot be denied or explained away is, that both students and licentiates are now of a higher grade than formerly, and *that* whether in respect of personal Christianity or of both sacred and general literature." No man either was or could be in a position so favourable as that which Dr. Chalmers occupied for speaking with accuracy and authority upon this point. The divinity hall in the university of Edinburgh, over which he presided, was the great school of the prophets, out of which the pulpits and parishes of the church of Scotland were then chiefly supplied with their ministers. And the testimony which he bore upon the subject no one acquainted with the facts of the case has ever ventured to dispute.

The position of Dr. Chalmers, as Professor of divinity, enabled him to speak with accuracy and authority on this subject.

It is well known indeed, that even those who at the outset were most vehemently opposed to the veto-law, including Dr. Cook himself, had begun some years afterwards to speak of it in a very altered tone. After an ineffectual

1834 to 1838. attempt to procure its repeal in the assembly of 1835, an attempt which was defeated by a majority of 52, opposition to it entirely ceased in the courts of the church. The same thing occurred in regard to the act for removing the disabilities of chapel churches and ministers. The same party who resisted it in 1834, made a motion to have it rescinded in the assembly of 1835, a motion which was thrown out upon a division by 176 to 108 votes. From that day forward, not only did all opposition to the chapel act cease, but on the express recommendation of the moderate party themselves, a chapel minister, and one who was a zealous member of their own party, the Rev. Dr. M'Leod of Glasgow, was shortly afterwards placed in the chair of the general assembly. In a word it may be unhesitatingly affirmed, that never in modern times did the general assembly, or the ecclesiastical courts throughout the church, present a more pleasing spectacle than at the period now under review. The violence of party spirit had, in a great measure, disappeared. Although the leading characteristics by which the two parties in the church had all along been distinguished, might still be easily enough discerned, there was no unseemly collision between them. If the evangelical majority were learning something in the details of ecclesiastical management, from those who had preceded them in the direction of church affairs, it may be safely and without offence affirmed, on the other hand, that the moderate minority were benefiting in their turn under the influence of that warmer piety, and purer discipline, and increased activity and zeal, which now pervaded the whole atmosphere of the church.

Opposition to the Veto-law and the Chapel act ceased in the Church courts soon after they were passed

A Chapel church minister, Dr. M'Leod, chosen to be moderator of the General Assembly.

Among the practical improvements introduced during this healthful and promising period of the church's history, was the measure which provided that no elder should be eligible as a commissioner to the general assembly, who was not

Reform of the Eldership.

CHAP. VII. *bona fide* an acting elder in some particular kirk-session and congregation of the church. Upon the motion of Mr. Dunlop, this important measure was carried, after a vigorous struggle, in the assembly of 1836. Previous to that time, it had become common for individuals who had neither the inclination nor the fitness to discharge the ordinary duties of the eldership, to get themselves appointed to the office solely for the purpose of obtaining seats in the general assembly. 1834 to 1838.

Injury the Church had sustained from the presence in the Assembly of elders who had nothing of their office but the name.

Such persons, strangers in many cases to all the feelings and habits that should distinguish the office-bearers of the church of Christ, were often, as might have been anticipated, a source of great injury to the church, obstructing the exercise of a faithful discipline, and lowering, by their secularity and religious indifference, the whole tone and spirit of the assembly. Their presence was a manifest violation of all those principles that were designed by the law and constitution of the church, to regulate the composition of its supreme court. And the act accordingly which put an end to this abuse, was a much needed and most important step in the direction of practical reform. The whole state, indeed, of the eldership was greatly in want of revision. The eldership constitutes one of the most valuable elements of presbyterianism, and on the purity and integrity in which it is maintained, much of the soundness and efficiency of any presbyterian church must always depend. It was abundantly well known, that in very many parishes it had sunk into a state of utter uselessness. A committee, of which Mr. Dunlop was convener, had accordingly been appointed in 1834, the very first year of the reforming decade, to examine into this whole subject, and the measure above mentioned as having been carried in 1836, had formed one of the recommendations contained in that committee's report. In that report it was justly observed, that "no provisions or checks which may be

Recommendations of Mr. Dunlop's committee on the eldership.

1834 to 1838. established with reference to the election of representative elders, can prove efficient unless accompanied by regulations that may exclude from admission to the office of elder, persons not duly qualified, and who are not able and willing to perform the proper duties of the office." And after pointing out how the office had been lowered in the estimation of the people by the system which had been followed, of excluding the congregation from all share in the election of those who were to exercise it, a system which converted the elder into the mere nominee of the minister, and in many cases into his creature and tool, the report recommended a return to the practice of the earlier and purer periods of the church's history, when the elders were chosen either by the direct voice, or at least with the express concurrence of the church members. Although this part of the committee's recommendation was not adopted till some years later, a great general improvement, in the condition and working of the eldership, resulted from the labours of the committee, and from the full and frequent discussions to which their statements gave rise.

Proposal to give the congregation a voice in the choice of their elders.

Along with these vigorous efforts to elevate the character and standing of an important class of the rulers of the church, it was natural to expect that the discipline of the church should exhibit the fruits of the same searching and reforming spirit. Neither heresy nor immorality were any longer winked at, as too often they had been before. To deprive a minister who was dishonouring his office by teaching gross error, or by living in sin, was no longer the strange and marvellous event which it had been wont to be. Such was the uncompromising faithfulness with which the laws of the church were now enforced against all such delinquents, and such the general efficiency which pervaded the entire management of its affairs, that impartial on-lookers were struck with honest admiration at the spectacle which

The discipline of the Church administered with fidelity and vigour.

CHAP. VII. 1834 to 1838.

Testimony of the *London Record* to the efficiency of the Church of Scotland in 1835.

it exhibited. The *London Record*, the organ of the evangelical party in the church of England, will probably be accepted by most religious men, as a competent witness in reference to the character and doings of a Christian church, and it is thus that respectable journal spoke of the general assembly of the church of Scotland, in the summer of 1835: "It were impossible, we should think, for the attached members of the church of England to view the proceedings of the Scottish church, as detailed in our columns, without mournful and uncomfortable reflections: there we see the national church of Scotland concentrated in her supreme, judicial, and legislative assembly, and wielding with a bold, vigorous, and yet consecrated arm, all the power with which, in the good providence of God, she is entrusted. She does not restrict her proceedings within a confined range, nor limit her operations, in this era of danger, to the exercise of the usual discipline over the immediate objects of her care; but considers and adopts various measures more or less intimately connected with the consolidation of her strength, the extension of her spiritual influence, the efficiency of her clergy, the scriptural education of her children, the propagation of christianity by missionary exertions throughout the world, and she also avails herself of the address of the lapsed church of Geneva to bear a clear and uncompromising testimony to those fundamental truths on which she and every other true church of Christ must ever stand. These appearances, we say, while cheering and consolatory in the abstract, are fitted to recal unpleasant sensations to the minds of the godly members of the church of England. The godly vigour and concentrated exertions of the sister church, according to her measure and opportunities, cannot but force upon them the remembrance that the vast powers of their own church lie scattered over the wide expanse of the country, with no centre or

The *Record* contrasts the united and vigorous action of the Scottish Church with the dislocation and helplessness of the Church of England.

1834 to 1838. head of union; with no means in this, her hour of danger, of drawing to a head her giant strength, and making it to bear with full effect on the events of the age, big as they are with blessing or cursing, life or death, to her existence as a national church; in other words, to the national profession of the christian faith."

Such a spontaneous and incidental testimony from an enlightened and impartial observer, candour will regard as evidence of the best and most unexceptionable kind, as to the true character and merits of that reforming policy on which the church of Scotland entered in 1834. But, independently altogether of the mere opinion or judgment of any class of men upon that subject, the facts which this chapter records, facts which resulted directly and immediately from that reforming policy, will always furnish for it an ample vindication. And when at length the prejudices and the passions, inseparable from a contest so exciting and eventful, shall have died away, a future generation, reviewing from a distance, and through a calmer and clearer atmosphere, the career of growing energy and usefulness on which the church was now advancing, will doubtless wonder, that in the nineteenth century it should have seemed better, not merely to a minority of disappointed and defeated ecclesiastics, but to leading senators and statesmen, to arrest so noble a work, and to destroy so fair a promise of national good, rather than concede to a christian congregation the very moderate privilege of not having, perhaps, the hireling nominee of a haughty and headstrong, if not irreligious and ungodly patron, thrust upon them against their will! "Schools," said Dr. Chalmers,* speaking of the healthful and prosperous

Posterity will wonder, that for the sake of supporting absolute patronage, statesmen should, in the nineteenth century, have broken up this reforming and prosperous National Church.

* *Remarks, &c., occasioned by Letter of Dean of Faculty to the Lord Chancellor.* Glasgow, 1839, pp. 74, 75.

CHAP. VII. period this chapter has described, "schools are multiplying with churches. The intellectual is keeping pace with the moral. The spirit of the age, too resistless to be stemmed or overborne, will, in the hands of a reforming church, be tempered with christianity, and have the right aim impressed as well as the right principle infused into it. Unless the dean, at the head of those ancients whose notions are as old as their families, and whom he now labours so desperately, and with all his might, to rally against the majorities of our church,—unless he succeed in arresting our progress, we shall take possession of the land, and at length present to our opponents, as the fruit of our victory, and in the benefit of which they will have the principal share, present them with a rational and educated, as well as a religious and withal orderly population. But if they will follow under the banners of the dean of faculty,—if the aristocracy of our land will commit themselves to the guidance of a defeated party in Edinburgh, whom the general assembly has now dethroned from their once hurtful pre-eminence over the counsels and measures of the church of Scotland,—if more intent on their own triumph than on the peace and good of our community, they do succeed in alienating from the church of our fathers the great bulk and body of their descendants, —then the alternative has been offered to them, and they have made their choice,—between a population now loosened from all the holds of this world's authority, and without the fear of God or the prospect of a future world before their eyes; and that same population, chastened by the power of christianity, and moulded into a conformity with its lessons and its laws. Heaven forefend that they should be the authors of their own undoing; or that, laying a hand of violence on the fundamental principles of our church, they should, like Samson of old, who took hold on the pillars of

1834 to 1838.

Dr. Chalmers on the two alternatives at that time presented to the aristocracy of the country.

His solemn warning, and the recklessness with which it has been disregarded.

1834 to 1838. the fabric, bury themselves in the ruins of its fearful overthrow." Solemn and pregnant words. And our next chapter will bring us fairly into the stream of those events from which it will be seen how little the warning was heeded; how recklessly, on the contrary, the deprecated alternative was chosen, with all its tremendous hazards to society in its train.

CHAP. VIII.

THE AUCHTERARDER CASE.

CHAP. VIII. WHILE the church was advancing with increasing energy and unanimity in that career of usefulness which the foregoing chapter describes, an event had occurred, inconsiderable in itself and for a time little regarded, but destined, ere long, to put a fatal arrest on her prosperity and peace. At the very moment when the horizon of the future seemed to be all bright with promise, there had been coming up from the horizon of the past the little cloud that was soon to darken the whole firmament, and to fill the heaven with storms. In 1838.

The origin of the Auchterarder case.

the month of August, 1834, the minister of Auchterarder, a parish in the southern part of Perthshire, died. That quiet country parish, previously without a name in history, was about to become the birth-place of a struggle that will make it memorable for centuries to come. By the law of Scotland, the patron of a parish is bound, within six months after it has become vacant, by the death or removal of the former minister, to nominate a successor to the charge, otherwise he forfeits *pro hac vice* his right of presentation, which falls, in that event, into the hands of the presbytery itself. It was at a meeting of presbytery, held on the 14th of October, about six weeks after the vacancy occurred, that a presentation was produced in favour of a licentiate of the church named Robert Young, from the patron, the Earl of Kinnoull. That the general reader may know what kind of document a presentation is, and to enable him the better to understand some of the points that may afterwards meet him in the legal discussions regarding it, it may be as well

1838. to introduce here a copy of the identical presentation out of which the Auchterarder case arose. "The Right Honourable Thomas Robert Drummond Hay, Earl of Kinnoull, undoubted patron of the parish church and parish of Auchterarder, lying within the presbytery of Auchterarder and sheriffdom of Perth, *considering* that the said church and parish is now vacant, and become at my gift and presentation by and through the death of the Rev. Charles Stewart, late minister of the gospel at the said church of Auchterarder; and I, being sufficiently informed of the literature, loyalty, qualifications, good life, and conversation of Mr. Robert Young, preacher of the gospel, residing at Seafield Cottage, Dundee, do therefore, by these presents, nominate and present the said Robert Young to be minister of the said parish and church of Auchterarder during all the days of his lifetime, giving, granting, and disponing to him the constant, localled, and modified stipend, with the manse and glebe, and other profits and emoluments belonging to the said church for the crop and year 1835, and during his lifetime, and his serving the cure of the said church, requiring hereby the reverend moderator and presbytery of Auchterarder to take trial of the qualifications, literature, good life, and conversation of the said Robert Young; and having found him fit and qualified for the function of the ministry at the said church of Auchterarder, to admit and receive him thereto, and give him his act of ordination and admission in due and competent form, recommending hereby to the lords of council and session, upon sight of this presentation, and the said presbytery's act of ordination and admission, to grant letters of horning, on a simple charge of two days only, and other executorials necessary at the instance of the said Robert Young against all and sundry the heritors, life-renters, feuars, tacksmen, tenants, possessors, and occupiers of lands within the said

Presentation by Lord Kinnoull in favour of Mr. Robert Young.

CHAP. VIII. parish, subject and liable in payment of the said localled 1838.
and modified stipend, for causing the said Robert Young, and others in his name, be readily answered and paid thereof in such due and competent form as effeirs. And I consent to the registration hereof in the books of council and session, or others competent, therein to remain for preservation: and for that effect I constitute —— ——, my procurators. In witness whereof, &c., (signed) Drummond Kinnoull. R. A. Yates, *witness.* Thomas Neatham, *witness.*"

The import of the presentation.

It will be seen upon the very face of this legal instrument that the thing which alone the patron professes to have at his disposal, is the benefice. It is this only which he claims any right or power to convey. The "examination, ordination, and admission,"—everything, in a word, which belongs to the investing of the presentee with the office of the ministry and the cure of souls, is here distinctly avowed to belong to the presbytery. Nor is it merely the presentee's fitness for the ministry in general, of which the presentation acknowledges it to be the exclusive prerogative of the presbytery to judge,—but his fitness and qualifications "for the function of the ministry at the said church of Auchterarder."

The presentation having been allowed to lie on the table till next meeting of presbytery, it was taken up for consideration in the usual form and in presence of the attorney or agent of the patron, on the 27th of the same month. On that occasion the presbytery recorded in their minutes, that as "the twenty-third regulation of the interim act of the late general assembly anent calls, intimates that all cases in which the vacancies have taken place after the rising of said assembly shall fall under the operation of the regulations and relative act of assembly anent calls: finds, therefore, that they must proceed to fill up the vacancy in

The presbytery resolve to proceed in terms of the Veto-law.

1838. Auchterarder *according to said act and relative regulations.*" If, therefore, either the patron or presentee designed to object to the legal competency of the assembly's act, it seems obvious enough that now was the time to do so. Not only, however, was no protestation made against their being held to be in any way compromised by the presbytery's resolution, but the patron's agent expressly "acquiesced" in the resolution of the presbytery, and "took instruments in the clerk's hands" to denote his acquiescence in the common form of law. This important fact is thus specially noticed, not merely for the purpose of pointing out with how much reason it was urged afterwards in the civil courts, that the patron and presentee were "barred by acquiescence from objecting to the proceedings of the presbytery, and pleading that the same were illegal,"—but also to show that at this stage of the case it had not occurred to either of these parties to question the legality of the assembly's act, and that the subsequent civil prosecution was an after thought.

The agent of the patron acquiesces in the resolution.

Following out their own resolution, and with the express concurrence of all concerned, the presbytery of Auchterarder appointed Mr. Young, according to the law and immemorial usage of the church, to preach in the parish of Auchterarder, so that the congregation might judge of his gifts for their spiritual edification. It has been already explained, that the church of Scotland does not ordain to a *ministerium vagum*. Excepting in the case of those who are set apart as missionaries, it ordains only to a particular cure of souls. The licentiate is not in orders: he is as yet a layman. His license implies no more than this, that the church is satisfied so far with his capacity, learning, and character, as to put him on *probation*,—to sanction his preaching to the effect of giving him an opportunity to cultivate his gifts, and to put the presbytery in a position to judge at a future period

Mr. Young sent to preach in the parish church.

A licentiate is still a layman.

CHAP. VIII. whether they are such as to warrant his being admitted to the office of the holy ministry. Mr. Young having preached on two several sabbaths in Auchterarder, as directed by the presbytery, the day at length arrived on which the question must be decided,—has he the call of the congregation? For as the patron's presentation is the foundation of the title to the benefice,—the call of the congregation is, according to the law and practice of the Scottish church, the foundation of the title to the pastoral office. On the day fixed for this purpose, and after due notice given, the presbytery met in the church of Auchterarder in presence of the assembled people. The church was filled by a congregation thoroughly alive to the importance and the sacredness of the duty they were now called to perform. After divine service had been conducted in the usual way, the call was produced, read, and presented for signature to the people. It ran in these words:—"We, the heritors, elders, heads of families, and parishioners of the parish of Auchterarder, within the bounds of the presbytery of Auchterarder, and county of Perth, taking into our consideration the present destitute state of the said parish, through the want of a gospel ministry among us, occasioned by the death of our late pastor, the Rev. Charles Stewart, and being satisfied with the learning, abilities, and other good qualifications of you, Mr. Robert Young, preacher of the gospel, and having heard you preach to our satisfaction and edification, do hereby invite and call you, the said Mr. Robert Young, to take the charge and oversight of this parish, and to come and labour among us in the work of the gospel ministry, hereby promising to you all due respect and encouragement in the Lord. We likewise entreat the reverend presbytery of Auchterarder to approve and concur with this our most cordial call, and to use all proper means for making the same effectual, by your ordination and settlement among

1838.

The presentation is the foundation of a title to the benefice—the call, to the cure of souls.

The call of the parish of Auchterarder to Mr. Robert Young.

1838. us, as soon as the steps necessary thereto will admit. In witness whereof, we subscribe these presents, at the church of Auchterarder, on this the 2d day of December, 1834 years." CHAP. VIII.

This solemn statement on the part of the congregation forms, as must be at once apparent, the natural and appropriate accompaniment to the deed of the patron. The patron offers, and it is all that he can give, a benefice. The people offer, and they alone, according to either scripture or right reason, are competent to offer it, the care of their souls. There could be no question at all that the Earl of Kinnoull was the legal patron, and therefore that in his presentation, the presbytery had before them the means of constituting a valid title to the living. And had the signatures attached to the call been such as to satisfy the presbytery that it expressed the voice of the congregation, their warrant to proceed could have been no longer doubtful, and Mr. Robert Young, if found, on examination, to possess the other requisites of learning, character, and good life, would certainly and without delay, have obtained both the benefice and the cure. The signature appended to the deed of presentation was undoubtedly that of the patron, but not less undoubtedly the names adhibited to the call did not constitute in any sense the signature of the parish. Had the name of his lordship's valet been the signature attached to the presentation, Lord Kinnoull could not have thought the presbytery acted unreasonably had they thrown the spurious deed over their table. And it should not have surprised either the patron or the presentee, that this treatment was given to a call which taking to itself the style, title, and designation of "we the heritors, elders, heads of families, and parishioners of the parish of Auchterarder," a parish containing upwards of 3,000 souls, was signed by three individuals, only two of whom, a certain Michael Tod

The presentation bore the signature of the patron: the call did not bear the signatures of the people.

The call signed by only two parishioners.

CHAP. VIII. and a certain Peter Clark, belonged to the parish! Sheridan's "three tailors of Tooley-street," were not a greater burlesque upon "we, the people of England." 1838.

Let it be borne in mind, that unless the presbytery, by a formal judgment pronounced by them as a court of the church of Christ, sustained this call as sufficient, that is, as representing adequately and fairly the mind of the congregation, they could not, according to the law and immemorial practice of the church of Scotland, proceed a single step farther towards the settlement of Mr. Young. The fact that, under the reign of moderatism, presbyteries were not ashamed to prostitute their sacred spiritual functions by performing farces of this kind, cannot alter the nature of things; cannot turn a lie into a truth. Michael Tod and Peter Clark were not the congregation of Auchterarder; and their call, though countersigned by the patron's factor, could never, without the grossest indecency, have been made the basis of that solemn procedure by which the church of Scotland sets a man over the flock of Christ. In order, however, fully to understand not simply the effrontery, but the profanity which the sustaining of such a call must needs have involved, it is necessary to advance from this first step to that which comes last, in the process of the ordination and admission of a minister to a cure of souls. When the day for that solemn service in any given case arrives, the presbytery assemble, the people convene, divine worship is offered, the presentee stands up in the face of the congregation, and the officiating minister proceeds to impose the ordination vows. The last of them all is this, "Do you accept and close with the CALL to be pastor of this parish, and promise through grace to perform all the duties of a faithful minister of the gospel among this people?" The call of Michael Tod and Peter Clark, two individuals out of three thousand, sanctioned in the presence of God, and by

The call illustrated by the place it occupies at the ordination of the minister.

1838. a solemn religious act, as the call of the parish, and as the warrant to the presbytery for proceeding with the ordination, —what could have been a greater mockery, or a grosser violation of sacred things?

The Veto-law brought out the negative as well as the positive state of feeling in the congregation in reference to the presentee.

There is only one plea that could possibly be urged to lessen the offensiveness of such a proceeding. If there were no opposition to the call, it might be held that silence was to be taken for consent; and on this ground, previous to the passing of the veto-law, calls that were signed scantily enough were occasionally defended even by some of those that were no friends to the policy of moderatism. Even then the ground was narrow and dangerous; but the passing of the veto-law having enabled congregations to bring out the negative as well as the positive state of feeling in reference to the presentee, that ground was no longer available for the vindication of Mr. Young's call to Auchterarder. Finding that they had exhausted the number of callers, the presbytery "then proceeded to afford an opportunity to the male heads of families whose names stand upon the (communion) roll, to give in dissents from the call and settlement of Mr. Robert Young, as minister of the parish." This step in the process formed a striking contrast to the one that went before it; instead of two individuals, nearly the whole congregation were instantly on their feet. Out of 330 persons entitled to exercise the privilege, no fewer than 287 came forward to record their names at the presbytery's table as dissentients against Mr. Young's call and settlement; and that under the solemn sanction of a declaration which the very fact of their dissenting implied their readiness to take, that they were actuated "by no factious or malicious motive, but solely by a conscientious regard to the spiritual interests of themselves or the congregation."

The Veto pronounced by the congregation.

In these circumstances the course of the presbytery could

CHAP. VIII. not be otherwise than simple and plain. If that principle 1838.

The duty of the presbytery in such a case was plain.

of non-intrusion which the veto-law was designed to protect and enforce, was not to be trampled under foot,—if the presentee was not to be thrust *into* the church at the expense of driving *out* the people,—to be clothed with the fleece at the expense of being stripped of the flock,—the presbytery must reject Mr. Young's call, and refuse to proceed with his settlement. Having adjourned for a fortnight, agreeably to one of the provisions of the veto-law, in order that time might be afforded to the dissentients to consider maturely the course they had followed; and finding at the adjourned meeting that they all without one solitary exception adhered to their dissent, the presbytery came to the preliminary decision, that there is "a majority of the persons on the roll still dissenting." The majority in point of fact, amounted to seven-eighths of the whole. Thereupon it was

Motion made to reject Mr. Young.

further moved and seconded, that the presbytery "do take into consideration the call to Mr. Young, presentee to Auchterarder, and do find, that it being signed only by three individuals, and of these only two members of the congregation, that said call is not a good or sufficient call; and do declare that no settlement can take place thereon."

Amendment, to delay, till the appeals taken were disposed of, by the superior Church courts.

To this motion an amendment was moved, that because of certain appeals to the provincial synod taken in the course of the foregoing proceedings by the agent for the presentee, "it was incompetent at this stage of the business" to come to a final judgment. The appeals in question had no reference to the legality of the veto-law; on the contrary, they were founded on the alleged violation by the presbytery of some of the regulations which constituted the directory for working it. The objections, obviously groundless and untenable, on which the appeals were taken, the presbytery had repelled. It appeared, however, to the supporters of the amendment, that till these appeals should have been

1838. disposed of by the synod, the final decision of the case ought to be delayed. The amendment having been carried, the case went accordingly to the Synod of Perth and Stirling, in the month of April following; where the appeals were dismissed and the case remitted to the presbytery, "to proceed agreeably" to the veto-law. This sentence having been appealed, in its turn, to the general assembly, it was finally decided on the 30th of May, that "the proceedings of the presbytery are not liable to any valid objections, and remit to the presbytery to proceed further in the matter in terms of the interim act (the veto-law) of last assembly."

The amendment carried, and the case appealed accordingly.

The decision of the Assembly.

The remaining history of the case, in so far as its career in the church courts is concerned, is soon told. On the 7th of July, the presbytery of Auchterarder met once more in the vacant parish, and with the decision of the general assembly before them for their guidance, did "now reject Mr. Young, the presentee to Auchterarder, so far as regards the particular presentation on their table, and the occasion of this vacancy in the parish of Auchterarder, and do forthwith direct their clerk to give notice of this their determination to the patron, the presentee, and the elders of the parish of Auchterarder." Against this sentence, Mr. Young's agent "protested and appealed to the ensuing synod of Perth and Stirling." That appeal, however, was never followed out, and so far as the church was concerned the case was now at an end. And here the reflection cannot fail to suggest itself, that if the act of 1834 was to be disputed at all, a better case than that of Auchterarder for bringing the real question which that act involved to an issue could not well have arisen. At Auchterarder it was no neck-and-neck race between the callers and the dissentients. It was no case of a parish all but equally divided on the subject of the presentee's gifts. It was not a case

Final sentence of the presbytery of Auchterarder, rejecting Mr. Young.

The Auchterarder case well fitted to test the non-intrusion principle.

CHAP. VIII. in which the only thing at stake was the mere letter of the veto-law. The parish was, to all intents and purposes, at one upon the point submitted to them. Mr. Young could not by possibility have become minister of Auchterarder, except at the expense of its being declared that the call of the people was a nullity, and the principle of non-intrusion a lie. If the call of Michael Tod and Peter Clark was sufficient,—if two parishioners out of three thousand were enough,—the call could be nothing better than a legal fiction, which ought to have no place among the solemnities of religion, and no share in the proceedings of a court of Christ. And again, if the proclaimed opposition of seven-eighths of a congregation, represented by the most staid and sober-minded portion of it, the male heads of families in full church communion, did not suffice to bring into operation the principle that "no pastor is to be intruded on a congregation contrary to their will," it could be only because the standards and laws of the church which so unequivocally announce that principle were to be stigmatized as uttering a falsehood. The call and non-intrusion, not in their accidents but in their essence, were the grave matters involved in the Auchterarder case. It will be seen, accordingly, in the sequel, that the issue of that case has been to sweep both the one and the other utterly and entirely away. 1838.

The call and non-intrusion, not in their accidents but in their essence, were at stake in this case.

It has been already noticed, that the appeal to the synod, taken against the final sentence of the presbytery of Auchterarder, by Mr. Young's agent, was dropped. The reason was, that before the synod met, the resolution had been taken by the presentee and the patron to carry their case into the civil courts. The private history of that resolution, it might be curious, but it is not important to know. It has been generally understood, that though Lord Kinnoull lent his name, he lent nothing more to support the action that was destined to break up a great national institution.

The patron and presentee resolve to carry the case into the courts of law.

1838. His lordship's responsibility, however, was not lessened by leaving the expenses of the suit to be defrayed by the presentee. Such an arrangement seems only to show, that though the maintenance of his rights as patron might hazard the disruption of the church of Scotland, his lordship did not think them sufficiently valuable to risk, for their sake, the costs of an action at law. The fact adds another to the many curious illustrations which history supplies of the light way in which often those first steps are taken, whereby, in the end, great public interests come to be subverted and destroyed. His lordship lends his spade, though he would not think it worth while to use it himself, to dig a little hole in the bank; and the hole becomes big enough by and bye, under the increasing force and violence of the inrushing erastian flood, to sweep away the blood-bought liberties of the church of Scotland.

The patron's part in this prosecution.

There is another circumstance, however, connected with the rise of this famous Auchterarder case, of much greater moment, and to which it is necessary that special attention should now be given. In itself, there was nothing either new or alarming in the mere fact, that a case which had been before the courts of the church, should be brought before the courts of the state. Such a thing, as has in this work been already shown, had occurred again and again before. A complex case, like that of the settlement of a minister, involves, from its very nature, both matters which are purely ecclesiastical, and matters which are purely civil, —and, therefore, that both the spiritual and secular courts might have occasion to handle it, had always been freely allowed. But the material point to be noticed is this,—*to what effects* were the courts of law to be now called on to deal with the case of Auchterarder. This question must be decided by the pursuers, before they can bring their action into court at all, as the forms of law require that the sum-

CHAP. VIII. mons by which the action is raised, shall distinctly state 1838.
what it is they wish the court to do. The leading counsel for the pursuers was that same dean of faculty who, as a member of the general assembly, had taken, in 1834, so decided a part in opposing the passing of the law which this action was designed to resist. It was, therefore, no new and strange subject with which he had now, in his professional capacity, to deal. It would, of course, be unwarrantable to affirm, that he had himself created the case,—but beyond all dispute, it was the legitimate offspring of his own reasons of dissent, recorded against the veto-law in the assembly of 1834. There is plainly, therefore, no room for the supposition that, when the case was placed in his hands, he had stumbled in his haste, as a counsel less versant in the points on which it turned might possibly have done, on a mode of laying the action, which farther inquiry into precedents led him afterwards to change. If any man might be expected to know how far precedents would carry him, in asking the interference of the civil courts against the veto-law, that man was the dean of faculty. Nor is there the least reason to suppose that any shrinking sensitiveness about endangering the spiritual rights of the church, would at all disturb him in the discharge of his duty to his clients, by hindering him from taking up the strongest ground which either statute or usage could be held to countenance in asserting their claims. What, then, was the ground which this *con amore* counsel of the Auchterarder patron and presentee took up, when he lodged their case in the court of session? It was a ground entirely in harmony with that view of the civil court's jurisdiction which has been given in this work; namely, that the validity of the patron's deed of presentation, and the disposal of the benefice, were the only matters to which their jurisdiction could extend. In the original

Mr. Hope, dean of faculty, the counsel for the pursuers.

The original form of the action.

1838. summons, prepared under the auspices of the dean of faculty, the pursuers sought to have it found that Mr. Young had been "validly presented,"—which no one ever disputed, —and that he had "just and legal right to the constant localled and modified stipend, with the manse and glebe, &c., during all the days and years of his life,"—that the presbytery, and the collectors of the ministers' widows' fund—a fund to which, by law, the stipends of all vacant parishes are assigned,—should be "decerned and ordained to desist and cease from molesting and disturbing him in the possession and enjoyment of the stipend of Auchterarder,"—that "the heritors of the said parish of Auchterarder ought and should be decerned and ordained, by decree foresaid, to make payment to the pursuer, the said Robert Young, of the stipend payable by each of them, respectively,"—or alternatively, "to make payment of the stipend to the (other) pursuer, the said Thomas Robert, earl of Kinnoull, * * * during the life of the said Robert Young."

Conclusions of the original summons.

Such was, in the first instance, the sum and substance of the demand which the legal advisers of the patron and presentee thought it competent for the court of session to grant. As Mr. Young has received a presentation to the living of Auchterarder, from the undoubted patron, and has been hindered from getting it by an act of the church which has no legal competency,—let him have the living without ordination to the ministry, or induction to the cure of souls at all. Or if this cannot be,—if his title to the benefice cannot be completed without the spiritual act of the church courts investing him with the pastoral office,—then, and in respect that the civil court has no jurisdiction to compel that spiritual act,—let the provision of the act 1592 be enforced, and let the patron retain the benefice in his own hands. These were the alternatives between which the dean of faculty, in the original summons, rested his entire

These conclusions involved no interference with the proper jurisdiction of the Church.

CHAP. VIII. case. And had he continued to leave it there, all those graver questions that were subsequently raised might have been altogether avoided. 1838.

Had the case been prosecuted in its original form, no conflict between the civil and ecclesiastical courts would have ensued.

Scarcely, however, had the action been brought into court, when it seems to have become apparent that, as on the one hand, no law could be found to warrant the giving of the benefice to an unordained and uninducted presentee,—so on the other, there was a clear law to hinder its being given to the patron,—the law, namely, which had expressly conveyed all vacant stipends to the widows' fund. Accordingly, before the action had been yet proceeded with, the form of the summons was entirely changed by the introduction of conclusions of a much more startling nature, and such as, if entertained at all, might easily be made to draw after them consequences of the most extensive and formidable kind. These conclusions, if followed out in the way which the pursuers contended for, must necessarily touch the spiritual powers and functions of the church, and could not fail in the long-run to bring on a conflict of jurisdiction between the civil and ecclesiastical courts. The amended summons sought to have it found by the courts of civil law,

The amended summons and its new and startling conclusions.

The terms of the amended summons.

"that the presbytery of Auchterarder, and the individual members thereof, as the only legal and competent court, to that effect by law constituted, were bound and astricted to make trial of the qualifications of the pursuer, and are still bound so to do; and if in their judgment, after due trial and examination, the pursuer is found qualified, the said presbytery are bound and astricted to receive and admit the pursuer as minister of the church and parish of Auchterarder, according to law. That the rejection of the pursuer by the presbytery, as presentee foresaid, without making trial of his qualifications in competent and legal form, and without any objections having been stated to his qualifications, or against his admission as a minister of the church

1838. and parish of Auchterarder, and expressly on the ground that the said presbytery cannot, and ought not to do so, in respect of a veto of the parishioners, was illegal and injurious to the patrimonial rights of the pursuer, and contrary to the provisions of the statutes and laws libelled." CHAP. VIII.

The thing assumed in this "amendment of the libel" is obviously neither more nor less than this—that even in matters confessedly spiritual, in matters for handling which it is on all sides allowed that the presbytery "is the only legal and competent court," the court of session is entitled to interfere, to the effect of prescribing to the presbytery its duty. And as the right to prescribe a duty would seem to imply the right to enforce the performance of it, the claim now made in the Auchterarder case, if followed out in the manner indicated by the pursuers, could involve nothing short of the total subversion of the church's spiritual independence. Her courts, on the footing on which that claim, if conceded in the sense and to the extent contemplated by the pursuers, must inevitably place them, would become the mere executors of the decrees of the court of session; dispensing, at the bidding of Cæsar, the things of God,—giving or withholding ordination, and by consequence all other spiritual functions and privileges,—not in deference to what they judged to be the revealed will of their divine Master, Christ,—but in deference to another master altogether,—to one who enforced his decisions, not by appealing to conscience and a divine directory, but simply and shortly by the pains and penalties of civil law.

The summons assumes a right on the part of the civil court to prescribe its duty to the Presbytery.

Consequences of that assumption.

The judges of the first division of the court of session having pronounced an order that this important cause should be argued before the whole court, the pleadings were opened on the 21st of November, 1837, and concluded on the 12th of the succeeding month. On the 27th of February following, the bench began to deliver their judicial opinions,—

The case opened 21st Nov. 1837, and decided 8th March, 1838.

CHAP. VIII. and on the 8th of March, the sentence of the court was given. 1838. These dates alone are sufficient to indicate the importance that was attached to the matters in dispute. Whatever may be thought or said of the decision, it certainly was not arrived at without the expenditure of an amount of time and pains worthy of the great interests and momentous consequences it involved.

The printed report of the case.

When the fact is considered that the printed report of the case occupies two well-sized octavo volumes, the difficulty will perhaps be seen and sympathized in of selecting and stating, with the needful brevity, the points material to the main question at issue. "One might naturally expect," observed Solicitor-General Rutherford, in opening his learned and most lucid reply on the part of the respondents, "that in a discussion of this kind the ground should be narrowed as the debate advanced,—that the lists should be contracted in the hour, as it were, of mortal strife. But it often happened otherwise, and in this case remarkably so; for the field grew wider and more wide as the conflict was prolonged; position after position was taken up by both parties, till at last they were in danger of abandoning altogether the points on which alone the contest turned." If even the accomplished lawyers who conducted the case had thus all but lost their way in the labyrinthine mazes which legal subtlety and ingenious special pleading had contrived to gather around it, no wonder that the unprofessional student of their learned lucubrations should experience some little bewilderment in attempting to follow them. Reference has been already made to the important change that was effected upon the original form of the action. Not a little of the intricacy which characterized the pleadings at the bar, as well as the opinions of the bench, was due to that change. The civil conclusions about the validity of the presentation and the disposal of the stipend still stood upon

Solicitor-General Rutherford's remarks on the intricacy of the pleadings.

The intricacy chiefly attributable to the alterations made upon the summons.

1838. the face of the action, and furnished to the counsel for the pursuers plentiful materials for an argument in support of the court's title to try the cause. In point of fact, however, these purely civil conclusions were practically superseded and set aside by the new matter which had been subsequently introduced into the summons, and the real question which alone the court had to deal with was one of jurisdiction. The question which came to be debated was not—who is the legal patron? or who has a legal title to the fruits of the benefice?—but, what is the duty of the presbytery? And although the conditions of the argument, as agreed upon by both parties at the bar, were such as to preclude the pursuers from founding anything whatever upon the original conclusions of the action; though these conclusions were to be held as in reality out of court,—yet were they continually and dexterously resorted to by the prosecutors, so as both to perplex and to prejudice another question with which they had nothing to do. But more than this, not only was the real point in dispute unfairly overlaid in the argument by considerations which were borrowed from an irrelevant source, but there was a want of candour and directness in the way in which the one point laid down for discussion was approached. When the original summons sought to have it found that either the patron, Lord Kinnoull, or, alternatively, his presentee, Mr. Young, was entitled to the fruits of the benefice,—there were corresponding petitory conclusions attached to these demands. The court was craved, in the event of their deciding in favour of the claim of either of the pursuers, to ordain the heritors to pay the stipend to the successful litigant, and to restrain all other claimants from molesting him in the enjoyment of it. All this was simple and intelligible: the court was asked to find that a certain wrong had been done, the remedy for that wrong was distinctly named, and the court was called

The real question that was debated at the bar.

Dexterous use which the pursuer's counsel made of the complexity of the summons.

CHAP. VIII. on to grant the remedy. Not so, however, in regard to the new and altogether different question of the duty of the presbytery, introduced into the action by the amended summons, and which came, as has been already explained, to be in fact the only question the court was asked either to consider or to decide. In connection with this new matter introduced into their action, there was no corresponding petitory conclusion put forward by the pursuers at all. The demand made upon the court was to declare nakedly and abstractly, and altogether apart from any practical result, what was the duty of the presbytery. The pursuers did not venture to say, "the presbytery have committed a wrong against Mr. Young, in rejecting him as they have done, and in refusing to proceed any farther with his settlement as minister of the parish of Auchterarder, and we call on the civil court to give him redress by requiring the presbytery, under the pains of law, to set their own sentence rejecting him aside, and to proceed to ordain and admit him notwithstanding." Had they taken this bold and manly course, both the bar and the bench would have known what they were dealing with, and all parties would have been compelled to come at once to the point. As it was, the true character of the conflict was never more than half disclosed, and the responsibility of fairly facing it was to a large extent evaded. Had the court from the very first been challenged by the pursuers, not merely to lay down a doctrine, but to act upon and enforce that doctrine,—not merely to assume a competency to prescribe their duty, in matters ecclesiastical, to church courts, but actually, by civil process, to compel the performance of that duty, that is, to compel ordination, by the rude arguments of fine and imprisonment—the solicitor-general would have had less occasion to complain of the discursiveness and irrelevancy of the debate. The lists would in that case have been contracted from the beginning. Just

1838.

The amended summons called upon the court to declare abstractly, and apart from any practical result, what was the duty of the Presbytery.

Disadvantage the Church sustained from this mode of proceeding.

1838. because it would then have been manifest to all that the strife was mortal—that it involved nothing less than a life or death struggle, not for the veto-law, but for the church's right of self-government, for the very soul and essence of her spiritual freedom—there would have been neither time nor taste for those "tricks of fence," those nice but needless displays of legal swordmanship which, after much noise and beating of the air, and confounding of the uninitiated, left the real merits of the question untouched and often unapproached. CHAP. VIII.

An insidious and stealthy mode of assailing the jurisdiction of the Church.

Whether this insidious and stealthy mode of carrying their point, was the result of a preconcerted plan on the part of those who managed the case for the pursuers, it is useless to inquire. There can be no reasonable doubt that it much contributed to their ultimate success. It introduced the narrow end of a wedge, which afterwards had only to be driven home, in order to rend asunder the liberties of the church of Scotland. Seeing that the action came to be thrown into the shape that has now been described,—the shape "purely and simply of an action of declarator against the legality of the proceedings of the presbytery under the act of assembly,"* it has been sometimes alleged that the church betrayed her own position and principles in consenting to appear and to plead before the civil court at all. This, however, is obviously a mistake. The church was clearly called upon, and had an undoubted interest to show, if she could, that the law passed in 1834, and which had governed the decision of the presbytery of Auchterarder in rejecting Mr. Young, was not *ultra vires* of those powers which the law of the land had ratified, and that it did not violate any of those civil rights which the law of patronage had conferred either on patrons or their presentees. It was

Did the Church compromise her independence by consenting to plead at all?

The reasons which made it the duty of the Church to plead.

* Rutherford's Reply, p. 347.—Robertson's *Report*.

CHAP. VIII. only by doing so she could prevent a severance of the benefice from the cure of souls. The church never questioned the right of the civil court to review the acts of the church, to the effect of determining whether or not they were entitled to carry civil results in their train. The church had received the benefices of her establishment from the state: she had received them for the support of those who were serving her spiritual cures. She was therefore not merely entitled, but bound to see that they were not illegally withdrawn from that use by any party whatever; and her business in the court of session in the Auchterarder case was to hinder such a withdrawment of the benefice of Auchterarder, either by Lord Kinnoull the patron, or by Mr. Young, his unordained and rejected presentee. And, moreover, since the pursuers, in their attempt to make good their claim to the benefice, had raised the further question as to the duty of the church in examining and admitting ministers, the church was doing nothing more than protecting her own right and interest in the benefices of the establishment, in attempting to satisfy the civil court that her duty in such matters was beyond the limits of the civil court's jurisdiction altogether. In a word, there were civil interests involved in the Auchterarder case, which the church had a clear call to maintain, and which could be maintained only in a court of civil law. Her right to control these civil interests by her decisions, depended necessarily and solely upon civil statutes. To the question, how far she had acted in harmony with these statutes, she was plainly bound to plead; but to this effect, and to this effect only,—to determine whether her sentence rejecting Mr. Young should or should not carry the usual civil consequences along with it, of voiding all claim on the part of Mr. Young to the benefice, and of requiring the patron, under pain of forfeiting *pro hac vice* his right of presentation, to proceed to nominate another individual to the vacant

1838.

The case involved civil interests.

Limits within which she recognized the civil court's jurisdiction in the case.

1838. benefice. These were substantially the grounds on which the church, through one of her presbyteries, appeared in the court of session, and these were the limits within which she submitted her interest in the Auchterarder case to its consideration and decision. CHAP. VIII.

The two main points which the case involved.

There were two main points in this case, as it was pleaded at the bar, namely, these:—First, was the act of assembly 1834 *legal*,—in harmony, that is, with the civil statutes regarding patronage on the one hand, and the church's right of examination and admission of ministers on the other? If it was, then must the pursuers be non-suited, and the sentence of the presbytery of Auchterarder must stand good, with all its civil results, as against both patron and presentee. But if it was not legal, then arose the other point in the case, namely, this, was it *ecclesiastical*,—did the matter, which it was the object of the law to regulate, belong to the province of ecclesiastical affairs? If so, then was it out of the cognizance and control of the civil court, to any other or further effect than that of disallowing the civil results which otherwise would have followed after it. Such at least was the doctrine held by the church, and maintained by her counsel at the bar of the court of session. "It is said," observed Solicitor-General Rutherford, speaking specifically to this second point of the case, "it is said, however, on the opposite side, If the church may do in this matter as she pleases, shall the parties injured by her acts judicially or legislatively have no redress? My answer is, None *in this court* against her judgment, or against her enactments in reference to matters purely ecclesiastical: and I maintain further, that in matters purely ecclesiastical, even if she acts unjustly, illegally, *ultra vires*, still the remedy does not lie with this court, nor can your lordships give redress by controlling the exercise of her ecclesiastical functions, when in the course of completing the pastoral

Mr. Rutherford denies the right of the civil court even to redress a wrong committed by the Church, if it be in a matter properly ecclesiastical.

CHAP. VIII.

relation. The court may have the power of disallowing the after consequences. Your lordships may refuse to regard the irregular or unlawful proceedings of the church. When the question before you on any civil right is said to arise out of the relation so illegally constituted, you may refuse, and you have refused the stipend in many cases to the incumbent spiritually inducted: but that is not the question here. The question is, whether an abuse by the church of her legislative powers will justify the interposition of this court? It has been maintained, on the other side, that it *will* in all cases. I maintain the reverse of the proposition, and that however competent it may be for the *state*, by the power of the legislature, to withdraw their recognition of a jurisdiction which is no longer exercised so as to warrant the continuance of the confidence originally reposed, it is not within *your* province."* 1838.

The State may redress such a wrong by disestablishing the Church.

The first of the two points: namely, the legality of the Veto-law.

In regard to the former of these two grand points in the Auchterarder case, that is, the *legality* of the act of 1834, the determination of it turned substantially upon this other question—Is there any legal foundation for the call of the congregation in the settlement of a minister? If it were admitted that the call, according to the ratified constitution of the church of Scotland, was an element without which no settlement could proceed, it would be obviously impossible to resist the conclusion that the church must be entitled to regulate the call; and hence, that the act of 1834 having been framed for that purpose, and being limited exclusively to that object, must be a legal enactment. Accordingly, at the bar the counsel for the pursuers took the ground of denying that the call had any legal standing whatever,—they held that it was an absolute nullity in the eye of the law. "The combination of a call with the right of presentation in patrons, as by law established," said Mr. Whigham,

To prove the Veto-law illegal, the call must be proved to be illegal.

* Rutherford's Reply, p. 382.—Robertson's *Report*, vol. i.

1838. the junior counsel, "is not only unintelligible but inconsistent. Under no statute will your lordships find any authority for a union of presentation by the patron and calling by the congregation."* To the same purpose, the senior counsel, the dean of faculty Hope, with equal confidence, observed —"I think it quite apparent that, in principle, the call was not applicable to a patron's presentee, as any necessary part of the ecclesiastical process."† CHAP. VIII.

The pursuer's counsel deny the legality of the call.

In reply to these strong assertions, attention was called by Mr. Rutherford to the fallacy on which they rested,—a fallacy which lies at the bottom of that whole line of argument by which the church's spiritual prerogatives were assailed, and in deference to which they were in the end destroyed. "There is no mention of the call in the statute of presbytery; and therefore," observed Mr. Rutherford, "it has been said that the call can be no part of the law of the land,—no part of the law of the church which the civil courts are bound to acknowledge or act on. I answer, that, adopting such a mode of reasoning, one-half, and more than a half, of the privileges of the church would be disallowed; and she would be rendered more bare of honour and prerogative than even any ordinary corporation, whose privileges may be asserted and ascertained by an appeal to the general practice of the constitution. If the call be shown to be a part of the law of the church, it is necessarily a part of the law of the land,—because the law of the church is recognized by the state: and if the veto-act, in regulating that call, has not exceeded the bounds within which the legislature of the church is circumscribed, it is impossible in a civil court, any more than in a church court, to deny the lawfulness of its enactments."‡ Having laid down this fundamental principle, he proceeded to show, by a reference to

Mr. Rutherford's answer to the argument against the call.

He maintains, that if the call be the law of the Church, it is, therefore, the law of the land.

* Robertson's *Report*, vol. i., p. 57. † Ibid., p. 260.
‡ Ibid., p. 356.

CHAP. VIII. 1838.

Proves the call to be imbedded in the very constitution of the Church.

the books of discipline, and to various express enactments of the church, that the non-intrusion principle, which is the real source and foundation of the call, lay imbedded in the very heart of the church's constitution and history; and having further shown, by a long series of decisions in the ecclesiastical courts, that, under the existing law of patronage, the want or the insufficiency of a call was held to be a fatal objection to otherwise unexceptionable presentees; and further still, having adverted to the well-known acts of assembly 1753 and 1759, "anent simoniacal practices," to prove how sacred and essential an element in the settlement of a minister the call was held to be, seeing that by these acts it was declared to be "a just cause of deposition in ministers, and of taking away the licence of a probationer," if they should be found using undue methods "to procure a call," or to obtain "a concurrence with the presentation" of the patron,—having set forth all this array of evidence, Mr. Rutherford put the matter in dispute in this simple and tangible form:—"It is said, no doubt, and this is the mode pursued on the opposite side, on the basis of their argument —that regard must be had to the right of the patrons: but if the church, under reservation of the civil rights of patrons, has been recognized by the state as possessing the whole right of collation and induction, and if the call be essential to collation and induction, how can it be said that the right of the patron is a civil right, independent of the church, or of the right of the church to determine anything essential to ordination? The question may be brought to a very simple test —Could it be maintained for a single moment, in the face of all the authority which has been laid before your lordships now, and by my learned friend (Mr. Bell) who spoke first in this debate, that any presentee could be ordained without a call,—that the call might be entirely superseded, and the presentee inducted into the parish without that form, neglect-

Demands to know if, consistently with the laws and constitution of the Church, any minister could be settled without a call.

1838. ing and passing over that part of the procedure which has been recognized as essential from the earliest period of her history? Such a position appears to me untenable. It is contrary to the first principles of her institutional writers,—it is contrary to the forms and proceedings laid down in all her elementary books, and daily observed in practice,—it is contrary to the standards of the church, and discipline of the church, and to her most solemn declarations and enactments. I refer not only to the act 1782, but to those other enactments of 1753 and 1759 in which she herself expressly declared that it shall be simony,—inferring deposition of office in the case of a minister, deprivation of licence in the case of a probationer,—if any undue practice shall be resorted to in order to procure concurrence in a call."*

CHAP. VIII.

Holds it to be impossible that the call could be superseded.

On the supposition that all these arguments were to go for nothing—that the call was to be treated as a shadow, and non-intrusion as a dream—and the whole basis of the veto-law to be accordingly swept away,—the question still remained—To what extent can the civil court grant redress? Admit that the call is unknown to the civil law, it is beyond all question known to the church. The principle which it embodies holds a conspicuous place in her standards of policy, the obligation to enforce it is made imperative by many of her laws, and her whole system of conferring ordination and the cure of souls is constructed on the assumption of its being an indispensable element in the settlement of every minister. This plainly implies that, at least in the judgment of the church herself, the call is a matter ecclesiastical. It is evidently such, moreover, in its own proper nature. Its sole design and use is to test the fitness of a candidate for the ministry, for that particular sphere which he is seeking to occupy. It bears exclusively

Even if the Veto-law be illegal, to what extent can the civil court give redress?

The call is a matter strictly ecclesiastical.

* Robertson's *Report*, vol. i., p. 377.

CHAP. VIII. on the question of his gifts to edify the body of Christ. 1838.
And lying, therefore, within the ecclesiastical province,—a province within which the civil court has no jurisdiction whatever,—that whole province being by the state itself declared to belong exclusively to the jurisdiction of the church,—the foundation of the solicitor-general Rutherford's assertion remains broad and clear: "I maintain that in matters purely ecclesiastical, even if the church acts unjustly, illegally, *ultra vires*, still the remedy does not lie with this court—nor can your lordships give redress by controlling the exercise of ecclesiastical functions, when in the course of completing the pastoral relation." The hinge of the whole question as to the church's spiritual independence, or right of self-government, lies here. And by attending to the line of argument by which, in the Auchterarder case, the competency of the civil courts to break in upon the ecclesiastical province was maintained, much light will be thrown upon the whole question in dispute.

In the case of a wrong committed in a matter ecclesiastical, the remedy does not lie with the civil court.

Take the Dean of Faculty's view of the origin and constitution of the church, and it follows, as matter of course, that the church can have no intrinsic jurisdiction whatever, and no province that can, with any strictness of propriety, be called her own. "The reformation in Scotland," he says, "was not brought about by changing the creed of the existing church (the church of Rome), and carrying on a different persuasion under the old institutions; the latter *fell*. The authority of the existing church was completely annulled, and for some time no establishment whatever existed in its room. It was not by pouring fresher blood into the ossified and corrupted veins of the ancient system that our reformation was accomplished. A new and vigorous, a young and untried fabric, full of energy and power, was created by the state in the room of that which the state overturned and abolished. I say, *created*, for it was devised,

The argument by which the Dean of Faculty breaks down the jurisdiction of the Church.

1838. formed, moulded, instituted, and created wholly and of new, by the state." Never was there a more ludicrous travestie of the facts of history than this passage exhibits! One would suppose that the queen in council, or at any rate the estates of parliament, had done the whole business—had, by the pure force of one civil enactment, thrown down the institutions of popery, and by the magic power of another, had conjured into existence a protestant church in their room. It could never be gathered from the learned Dean, what notwithstanding is the indubitable fact, that the "authority of the existing (popish) church was completely annulled," in the sense of being practically thrown off by the people, not by the help of the state, but in spite of all that the state could do to uphold it. And as to the state "devising, forming, moulding, instituting, creating" the "new and vigorous" church of the reformation, every child who has read the history of the period knows the contrary. The state, guided by popish influence, did its best to play the part of another Herod, by attempting to strangle the infant church in its cradle. It was in the face of the state's bitter enmity and bold persecution the protestant church arose in Scotland, and already had it become so vigorous as to have enlisted the better part of the nation in its ranks, before the state interposed in its behalf at all; and when it did interpose, in 1560, it was simply to do in form what had already been done in fact, to withdraw the national sanction from the forsaken and falling superstition, and to recognize the adherents of the reformed cause as the true church of Jesus Christ. Beyond this, as has been shown in an earlier part of this work, the state for some years did absolutely nothing. The church, by the blessing of God on the labours of Hamilton, Wishart, Knox, and their devoted fellow-labourers, had been "devised, formed, moulded, instituted," and, in so far as human agency is concerned, "created,"

His account of the origin and establishment of the Scottish Church at variance with the facts of history.

The State did not create, but rather tried to crush the Reformed Church of Scotland.

The Church grew up and matured its ecclesiastical system apart from the State.

CHAP. VIII. without any intervention on the part of the state whatever; 1838.
it framed its confession and standard of policy, it convened its assemblies, constructed the platform of its government, and put its whole machinery in motion,—apart from the civil power; and it was notoriously as an already existing, organized, and powerful institution, that it first came into contact with the state, and received the immunities of an establishment.

The Dean was dissatisfied with the junior council, because he had permitted himself to use language which implied this. Mr. Whigham had "described the establishment of the national church as a *compact*." "Any such compact," exclaimed the Dean, scouting the idea which the term conveyed, "any such compact implies the existence of two independent bodies with previous independent authority and rights." Undoubtedly it does. And was the church of Christ not an independent body, having "independent authority and rights," during the first three centuries of the christian era? Had it no authority and no rights till in the fourth century it received them at the date of its civil establishment from the hands of a Roman emperor? Most of those who are contented to take Scripture for their guide on such questions, are accustomed to think that when the divine Head and Founder of the church said to his apostles,—"All power is given unto me in heaven and in earth. Go ye *therefore*, and teach all nations, baptizing them in the name of the Father, and of the Son, and of the Holy Ghost: teaching them to observe all things whatsoever I have commanded you: and lo! I am with you alway, even to the end of the world;"* that then and thereby the only "authority and rights" which properly belong to any branch of the christian church were

The Dean scouts the idea of there being any *compact* between the Church and the State.

Christ's commission to the apostles, the true source of the rights and authority of the Church.

* Matt. xxviii. 19, 20.

1838. made over to it once for all. But not such is the opinion of the Dean of Faculty. "What rights," he demands to know, "had the church of Scotland before its establishment by act of parliament to assert, or surrender, or concede."* And by way of explaining, what he understands to be involved in the contrary notion, of its actually having pre-existent rights, he goes on to say,—"The question I advert to involves the claim of divine right, of a power to legislate and regulate as bestowed on the church by its great spiritual Head, and inalienable, as in a pre-eminent manner derived from the authority and accompanied by the blessing of God. This, my lords, is the most pernicious error by which the blessed truths of Christianity can be perverted, and its influence on the social system blighted and destroyed,—an error which arms fallible man with the belief that he possesses the power and authority of the divine Teacher whom he worships, and leads him to disregard all rights or usages, or laws, which interfere with the end which he is thus taught to believe he has a divine commission to accomplish, or with the authority which he believes he is commissioned to enforce." Stripped of its high-sounding phraseology, what does all this mean? It means simply, that it is false and wicked to affirm that the church can understand what its divine Lord and Master would have it to do: but that it is most true and wholesome to maintain, that the state, through the courts of law, is alone entitled to determine and declare what is the church's duty. It means that it is most perilous to society that the church itself should be allowed "to legislate and regulate" in matters spiritual,—but that it is most safe and necessary that the power to do all these things should be entirely under the control of the secular government. Plain it is,

The Dean's notions on that subject.

Pronounces the claim of a divine right on the part of the Church to exercise her spiritual government, —to be a pernicious error.

What this assertion means.

* Robertson's *Report*, vol. i., p. 184.

CHAP. VIII. that if the church is to exist as an organized body,—if it is 1838.
to have a membership, and offices, and ordinances,—a power to legislate and regulate in those matters which belong to it as a peculiar and distinct society, must reside somewhere. The Dean's theory amounts simply to this, that it is "a pernicious error" to say that that power was meant, by the Lord Jesus Christ, to reside in the church itself,—and that, for the church to plead a divine commission, as its warrant for what it is doing, or a divine authority for any sentence it is seeking to enforce, is nothing less than blasphemy against Christ, and treason against human society! If indeed the church took up such ground on the footing of an alleged infallibility, and if it claimed to enforce its decrees by the sword of the civil power, there would be some ground for the Dean's alarm. But he will find the ideal of his sketch only in the church of Rome. The reformed church of Scotland not only never made, but ever vehemently contended against all such impious pretensions, and all such tyrannical recourse to the sword of the civil power.* But not the less does it claim a divine commission and divine authority, as the foundation on which both its doctrines and its discipline rest. In executing that commission, and enforcing that authority, however, it touches neither the person nor the property of men,—it deals with conscience alone. And whether society be safer when the power to "legislate and regulate" in matters ecclesiastical, is left with those spiritual rulers who back their decisions with nothing but an appeal to an open bible, and to the judgment-seat of Christ,—or with that secular power which supports its decrees

The reign of the Stewarts will tell whether it be safer for society that matters spiritual be controlled by the sword of the State, or by the keys of Christ's Church.

* It may indeed be possible enough to pick out stray sentences from the writings of some of the Scottish reformers, that may seem hardly in keeping with the description given above. Enlightened views on the subject of toleration were not reached all at once. But in so far as the public profession and actings of the church are concerned, the statement in the text is strictly true.

1838. with the sword,—let the persecuting reign of the Stewarts tell. CHAP. VIII.

If, indeed, all that the Dean intended to say were only this,—that when the state bestows upon a church the privileges of a national establishment, it is entitled to know what the church is to teach, and what is the kind and extent of jurisdiction which it claims to exercise,—his statement would not only be harmless, but would embody an admitted and most important truth. The state, as being itself responsible to God, is bound to satisfy itself that the doctrine of the church which it countenances is according to truth, and that there is nothing in its principles and polity that trenches upon the proper prerogatives of the civil power. And, moreover, when this understanding has been once defined by the statutes on which the church's establishment rests, the church cannot adopt a new creed or a different polity, without, by so doing, releasing the state from the obligation to uphold it as a national institution. But this is a concession that will by no means meet the demands of the Dean. His theory assumes that the state is, at least to an established church, the source and fountain of all the authority and jurisdiction which the church enjoys. His view is,—not that the state recognises and ratifies a certain authority and jurisdiction as inherent in the church, and derived to it from its divine Head,—and which the state accordingly binds itself to respect and uphold,—but that the state delegates to the church a certain measure of power, which being held from the state, must be exercised at all times under state control. "When one," he observes, "has to consider the power and authority of a national church established by statute, the true question and the simple question is—to what extent has *statute* entrusted to that church any authority or power, either in spiritual or ecclesiastical matters? The question is not one of divine

When the State establishes the Church, it is entitled and bound to know what the Church is to teach, &c. &c.

If the Church alters its creed or policy, it releases the State from the obligation to maintain it.

These concessions will not satisfy the Dean.

The Church, in his view, derives all its *spiritual* powers from statute laws.

CHAP. VIII. right, or spiritual authority, or scriptural truth. It is a question of *law*, of dry law, depending on the construction of statutes and the force of precedents." 1838.

It seems, indeed, extraordinary enough, that any one should attempt to maintain such a theory in relation to the church of Scotland. The very statutes by which it was established deny the Dean's doctrine in express terms. Instead of denouncing it as a pernicious error, to say that the church holds any of her spiritual powers by divine right, the statute 1592, in so many words declares, that the right of the church to regulate and dispose of all matters "concerning heads of religion, matters of heresy, excommunication, collation and deprivation of ministers," &c., &c., is a privilege that "*God has given to the spiritual office-bearers of His kirk.*" While the confession of faith, which is also the law of the land, pointedly affirms that "the Lord Jesus, as King and Head of His church, hath therein appointed a government in the hands of church officers distinct from the civil magistrate." And further, that under this delegation from Christ, "it belongeth to synods and councils (of the church) ministerially to determine controversies of faith and cases of conscience; to set down rules and directions for the better ordering of the public worship of God and government of His church; to receive complaints in cases of mal-administration, and authoritatively to determine the same; which decrees and determinations, if consonant to the word of God, are to be received with reverence and submission, not only for their agreement with the word, but also *for the power whereby they are made*, as being *an ordinance of God* appointed thereunto in His word."*

The law of Scotland expressly contradicts the Dean's theory.

The act 1592, and the Confession of Faith, on this point.

It is impossible, by any selection of language, more explicitly and emphatically to contradict the Dean's theory,

* *Confession of Faith*, chap. xxx., xxxi.

1838. than by the language now quoted. It would, indeed, have been hardly worth while to take so much notice of that learned person's confident, but groundless assertions, had it not been that they were adopted, to a large extent, by many of the judges, and went far to regulate those views of the court's jurisdiction, on which their decision in the Auchterarder case, and in all the subsequent conflicts between the civil and ecclesiastical courts proceeded. It was not, therefore, so much by the force of any particular construction of the act of Queen Anne restoring patronage, as by the force of a *new* view of the fundamental relation of the church and the state, that the court of session was guided to those conclusions which, as afterwards interpreted in the second Auchterarder case, and sanctioned by the legislature, brought about the disruption.

So much notice taken of the Dean's theory of the relation of Church and State, simply because it was adopted by the majority of the Judges, and evidently governed their decision of the Auchterarder case.

The solicitor-general in his reply grappled with the Dean's erastian theory, and showed, with consummate ability, that it was not only unsupported, but contradicted by the whole constitution and history of the Scottish church. Having recited the many statutes in which the liberty and jurisdiction of the church "in all matters and causes ecclesiastical," are ratified in the broadest and most explicit terms, he went on to say, "The statutes already referred to, show that it is impossible to take the most general survey of the statute book, without seeing the fallacy of any argument that would rest upon the two or three statutes alone that have been quoted (by the Dean), as explaining and defining the constitution of the church. These statutes refer to an *existing discipline*,—they refer to presbyteries, synods, and assemblies *already in existence*, and exercising *known and acknowledged powers*. They do not *create* but *recognise* an established order of things. Their language in itself is too vague to have been used, if it had been their object to create, and not merely to acknowledge and ratify an actual

Mr. Rutherford's reply to the erastian theory of the Dean.

The statutes establishing the Church do not create, but simply recognize it.

CHAP. VIII. constitution. To see, therefore, what it is that the parliament approved and ratified, your lordships must look to the practice of the church herself and to her records, and must find in her statute books, and in her practice, the more exact definition and explanation of that constitution which the parliament generally, and by reference, sanctioned and ratified. It is only by referring to the history of the church, and examining the various ways in which the church has exercised her judicial and legislative powers, that your lordships can know and see what is the form and extent of her constitution, and to what matters it extends, many of them having reference to her own internal regulation."* These general views he proceeded thereupon to illustrate and enforce by a long series of conclusive examples. On the supposition that the state was the fountain of the church's entire jurisdiction, and that it neither had, nor could have, any powers but those which civil statutes had in express terms conveyed, the solicitor-general called on the court to observe some of the consequences that must follow. The general assembly has never had its powers defined by any statute whatever; and hence the very great power which it has exercised for centuries, and which it would be considered utterly absurd to challenge, must be pronounced to have no legal foundation. Again, that grand characteristic feature of presbyterian church government, the presence of *ruling elders*, an order of men distinct from the ministry, in all the church courts, has no warrant from any law of the state, and according to the Dean's theory must be swept away. Farther still, the church has from time to time altered the proportion which the representatives, sent by the several presbyteries to sit in the general assembly, should bear to the number of parishes which each presbytery contained;

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The powers of the Church to be learned from her standards and practice.

Consequences that would follow from the Dean's mode of construing the powers of the Church.

* Robertson's *Report*, vol. i., pp. 352, 353.

1838. admitted representatives to the assembly from the church of Campvere in Holland, from Darien, and from India; divided presbyteries and parishes, made regulations with respect to plurality of offices, imposed additional tests of the qualifications of ministers, framed laws regarding simony and simoniacal practices by ministers and probationers, regulated the solemnization of marriage, &c. &c., and all this without any express statutory sanctions for so doing. "When your lordships are therefore called to consider," said the solicitor-general, "what are the powers of the church with respect to collation and admission of ministers, to what extent more especially the church has it in her power to regulate the call, * * * it is necessary to enter into the consideration of the subject in regard to a church invested with high judicial and legislative powers, not precisely defined by any acts of parliament, but the extent of which is to be discovered in their operation, by the varied and important acts, which, in the exercise of them, she has from time to time performed."

The powers, judicial and legislative, of the Church not defined by acts of Parliament.

Having brought this powerful general argument to bear on the church's right to regulate the call, and having set forth the grounds already noticed on which the legality of the act formed for that purpose in 1834, might be confidently maintained, he returned to the still graver question now under consideration, of the civil court's power to grant the redress which the pursuers claimed, even if the legality of the act of 1834 should be denied. The court's alleged power to prescribe their duty in this spiritual matter to the presbyteries of the church, was rested formally on the astricting clause of the act 1592; the clause, namely, which provides that the presbyteries "be bound and astricted to receive and admit whatsoever qualified minister presented by his majesty or other laic patron." That clause manifestly must be read in conjunction with the clause which

The astricting clause of the act 1592, and the argument founded on it to support the jurisdiction of the civil court.

CHAP. VIII. precedes it, and which ordains "all presentations to benefices 1838.
to be direct to the particular presbyteries in all time coming, with full power to them to give collation thereupon, and to put order to all matters and causes ecclesiastical within their bounds, *according to the discipline of the kirk.*" It must be read, moreover, in conjunction with that whole series of statutes by which the jurisdiction of the church in all "matters and causes ecclesiastical," and specially in the whole business of the "examination and admission of ministers," is declared to be supreme and independent. And last of all, it must be read in conjunction with that remarkable provision of the act 1592, by which it is laid down, as the only competent remedy, in the event of the presbytery refusing, on what the civil court might regard as an illegal ground, to receive and admit the patron's presentee, that the patron might retain the civil fruits of the benefice in his own hands. Speaking to this point of the astricting clause —"It is maintained," said the solicitor-general Rutherford, "that the act 1592 contains a special clause by which the church is astricted and obliged to receive and admit qualified ministers, and that the present action has been brought in terms to enforce that obligation." The astricting clause had been repealed by the act 1690, and it might with no little force of argument be maintained, that there was nothing in Queen Anne's act to revive it. Moreover, it might be questioned whether the phrase "qualified *minister*," had reference to a mere probationer, as yet unordained,—and whether therefore the astricting clause, even if allowed to be in force, was ever meant to apply to a case like that of Mr. Young, a layman, seeking not only a benefice, but seeking the ministerial office. "But passing all this by," continued the solicitor-general, "and considering the act 1592 as still in force, does it follow that your lordships have power to see to the observance of that obligation by

Mr. Rutherford on the astricting clause.

Reasons why the clause might be held as not now in force.

Admitting it to be in force, has the civil court jurisdiction to compel the observance of it?

1838. the church? or in the event of her failing to discharge her duties, that *you* can compel her to do so? The church has not in this respect only, but in many others, rights and powers of very large extent and of vast importance to the temporal and spiritual welfare of the people. In this, as in all other cases, right and power imply corresponding duties and obligations. For the exercise of her rights and powers, for the performance of her relative duties and obligations, the church unquestionably is responsible to the state by which, *as an establishment*, she is created: but she is not therefore responsible to *this court*, unless, indeed, it can be shown that the state has made this court the supreme judge over the church, and has conferred on it power to correct an abuse of power which the church may commit in the discharge of what are purely her ecclesiastical functions."*

The State has not made the Court of Session the supreme judge over the Church.

In other words, the solicitor-general clearly proved that the astricting clause would not suffice to invest the civil court with the jurisdiction claimed. Unless, along with that clause, certain general principles be assumed of the nature of those which the Dean had laid down,—principles which take for granted that there is in the civil court an inherent supremacy in all matters over the courts of the church,—the astricting clause would want the fulcrum on which to rest, and would be altogether impotent as an engine for overthrowing the spiritual independence of the church. Nothing could be more striking or impressive than the argument of the solicitor-general on this fundamental point. He sought to open the eyes of the court to the consequences of such a doctrine as the Dean had maintained. "This brings me," he observed, after disputing that doctrine on the general grounds already noticed, "to consider what is of very great importance in this case, as a

* Robertson's *Report*, vol. i., pp. 382, 383.

CHAP. VIII. criterion by which to ascertain how far this court has power 1838.

Mr. Rutherford on the remedy hinted at by the pursuers' counsel.

to interfere in the manner which is asked by this action, namely—What sort of remedy is proposed, on the other side? There is no remedy asked in the summons. The summons concludes for a mere declaration of right,—but my learned friend supplied this defect, and has been pleased to explain pretty fully the sort of remedies he expects; and I am glad that he has done so, because it brings the matter to this test—Whether any enforcement which your lordship's decrees in this court can receive will reach the case which is in court. * * * What remedy can be imagined, if the presbytery should refuse to fulfil that obligation which your lordships' judgment should declare to be incumbent on them? Can you, by any decree, order the presbytery to take the candidate upon trials; and if found qualified, to establish the pastoral relation by ordination? Can you complete his admission to the pastoral cure, as you may no doubt declare his right to the temporal fruits of the benefice? Where is there authority for any such proceeding in the act 1592? That statute is directly to the contrary: for it points out a specific remedy in the event of the presbytery refusing to induct, namely—that the patron shall have right to the stipend. That is the alternative which the statute allows: that is the peculiar civil remedy which is given for the civil wrong: and the very circumstance of that special remedy being given, proves in the strongest manner that no other remedy was intended; and that anything like civil process, under your lordships' decree, to establish the pastoral relation, is a proposition utterly preposterous and extravagant."

Maintains that by law no remedy is competent but the alienation of the benefice.

Mr. Rutherford on the respective provinces of the Church and the courts of law.

The wisdom, the justice, and the true philosophy of that great radical distinction which the whole constitution and history of the church of Scotland exhibited and maintained, between the matters proper to the church, and the matters

1838. proper to the civil power, has been seldom more effectively brought out than in the following noble appeal: "What means," demanded the solicitor-general, "have your lordships of forming a judgment as to whether, in a particular case, the party proposed is a fit pastor for the parish,—whether it is or is not consistent with the interests of the church that that particular part of the flock should be placed under his spiritual cure? (Looking to this court,— to the principle on which it is called to act, to the knowledge which the constitution presumes, and rightly presumes, to reside in it,—you have not the means of forming a correct or proper judgment upon those spiritual matters which the constitution has confided to no civil court, but given for regulation to the church—in her judicial tribunals, and in her own internal legislature. Enforcing, by your lordships' decrees, the spiritual induction of a pastor! Compelling, under pain of horning and imprisonment, the church to confer the spiritual gift of the ministry! Have the pursuers reflected for a moment upon the nature of the proposition they maintain? It is simony,—a grave ecclesiastical offence, a crime even of deep dye, in the eye of the church, and not considered lightly by the law,—to procure presentation for good office and reward; or, in the case of a call, to procure concurrence to the call by similar means. Then what shall it be, if the civil power compel, by imprisonment, by the dread of punishment—by brute force, for it comes to that—the imposition of hands, and that gift of the Spirit which is presumed to pass by the ceremony of ordination?) The supposition is monstrous,—and it is the more extraordinary when we consider the constitution of the church of Scotland in this respect, that she has not, as other churches often have, their ready-made clerks—their clergymen already completely ordained—stamped by the church,—persons to whose ministry there can nowhere be any objection: but

The courts of law cannot form a judgment upon matters spiritual.

Will the civil court compel ordination by brute force?

CHAP. VIII. 1838.

that every case of presentation, with a few exceptions, as already observed, of ministers transferred, implies a case of ordination. So that, if it is held that a presbytery may be compelled, by your lordships' decree, to admit the presentee to the benefice, they must equally, and by necessary inference, be held as compellable to give ordination."*

Mr. Rutherford treats the claim of the pursuers as altogether monstrous.

The two positions that were maintained by the counsel for the Church.

Such were the two leading positions taken up and maintained by the counsel for the church in the Auchterarder case at the bar of the court of session. First it was contended that the act of 1834 was *legal*, and therefore that the decision pronounced under it was effectual to carry all the ordinary civil results in its train; and *second*, on the supposition of its being found that the church had exceeded her powers, in the sense of having imposed, by the act of 1834, a restriction upon the rights of patrons not contemplated by the statute, that restriction had been effected not by legislating on a matter of civil cognizance, but by legislating on a matter strictly ecclesiastical, and lying therefore exclusively within the province of the church. And hence, that whatever the courts of law might do in the way of refusing to allow decisions under the assembly's act to affect the disposal of the benefice—whatever, in a word, they might do in regard to the original conclusions of the summons—they at all events could not touch the decision of the presbytery. To all spiritual effects that decision was beyond the cognizance of the courts of law; to take any other view would be to usurp a jurisdiction which the constitution had not given to the civil court, and to subvert the very foundation of the jurisdiction of the church. Even if the court should pronounce a decision in terms of the amended summons, still so long as no practical conclusion was founded on it, that decision could not be held

A decree in terms of the amended summons would determine nothing more than this,—that the sentences of the Church courts under the Veto-law would have no civil results.

* Robertson's *Report*, vol. i., pp. 384, 385.

1838. to have actually settled anything more than this, that the rejection of a presentee, on the ground prescribed by the Veto-law, was illegal, and could not, therefore, carry the usual civil results along with it. The pursuers might, indeed, use that decision afterwards, as they did use it, to lay the basis of a further demand, that the presbytery should be compelled, under the pains of law, to undo their spiritual sentence and to go on with the trials of Mr. Young; but the amended summons, as has been already explained, cautiously —perhaps it would not be too strong an expression to say, cunningly—avoided making that demand, and no decision, therefore, which confined itself to the terms of the summons could be held to have given to that demand a legal sanction. CHAP. VIII.

Opinions of the judges.

The bar having concluded its pleadings, and the bench having taken ample time to deliberate, as already noticed, the judges began, on the 27th Feb. 1848, to deliver their opinions. It has been already explained, that the main ground taken up by the counsel for the pursuers, against the validity of the act 1834, was a denial of the congregation's right of call. Those judges who supported their claim did so upon the same ground. They held the call to be destitute of any foundation in law. The lord president, who led the way, maintained that the act 1592, the great charter of the church, gave no hint "of any right in the congregation, *or any part of it*, to interpose themselves between the patron and the presbytery;" and that the act of 1711, under which patrons enjoyed their existing rights, "gives no authority for calls or for *approval* or *disapproval*, either with or without reason." Lord Gillies contented himself with assuming, that by the act on calls of 1834, "patronage would be rendered a mockery." And holding that the question lay, which no doubt it did, between maintaining absolute patronage on the one hand, and maintaining that restriction upon it which was implied in

The Lord President Hope denies that the *call* has any authority in law.

CHAP. VIII. the call on the other, he had no difficulty in deciding which 1838.

Lord Gillies greatly prefers absolute patronage to a valid right of *call.*

of the two to choose. "If the question be put," said his lordship, "whether the call is to be rendered or continued a mockery, or whether patronage is to be rendered a mockery, I have no hesitation in thinking that the call must yield to the presentation; and I would at once say, let not patronage be abolished or defeated, but let the call continue to be, what it has been for the last fifty years, a mere piece of form." The Lord Justice Clerk Boyle was more cautious —he admitted that, by the law and practice of the church, the call was "an established part of the procedure" in the settlement of a minister, but still he came to the same conclusion with the others, that the right of presentation "is, by law, free from all fetter or restriction whatever," excepting the right of the church "of giving collation after examination, as to the qualifications of the persons presented." His lordship assumed that acceptableness to the people was no part of a presentee's legal qualification; and hence, that the call was an element altogether unessential in the process of his settlement. Lord Meadowbank was clear and peremptory, that the act of Queen Anne restoring patronage left neither "assent nor dissent" to the people, and of course, that the call was a mere usurpation. Lord Mackenzie took the same view. He held the call to be, "of necessity, in contradiction to patronage, and that, when continued under patronage, it must necessarily have been originally a mere piece of resistance to the legislature on the part of the church." Lord Medwyn, an episcopalian, confessed that the whole subject was new to him. He favoured the court, however, with the result of his researches, and these had conducted him to this conclusion, that the call was no "legal or necessary step in the induction of a minister when presented by a patron." His lordship's disquisition on the rights of patrons, the law and practice

The Lord Justice Clerk comes to the same conclusion.

Lord Meadowbank holds that the act of Queen Anne leaves no right of either assent or dissent to the people: and Lord Mackenzie concurs.

1838. of the continental churches in regard to the settlement of ministers, ecclesiastical jurisdiction, &c., and extending to eighty-four closely printed octavo pages, became a rich and favourite quarry, from which, in the sequel of the disruption controversy, the writers and speakers on the side of moderatism extracted largely—erroneous quotations not excepted. The only thing they omitted was an acknowledgment of the source from whence their ready-made evidence and arguments had been derived. His lordship found no right belonging to the congregation, except the right of libelling the presentee as a heretic, if his doctrine should be unsound,—or as a profligate, if his morals were impure. Lord Corehouse followed Lord Medwyn, *sed longo intervallo*, in his researches into ecclesiastical history. He quoted the authority of a certain Pope Gelasius, to prove that the consent of the people was no free-will consent. "After it was settled," said his lordship, "that the consent of the people is to be asked at the admission and ordination of a bishop or other minister, the question arose, as it necessarily must arise in such circumstances,—What if the people refuse to consent, does that defeat the nomination or does it not? This question was answered as early as 493. Gelasius, the pontiff at that time, states, that he was informed that a benefice had been long vacant, and that very few, and those of the meanest class, would concur in the election of the person who had been approved by the church. Therefore he puts the clergy in mind, that it is their duty to *compel* all the people, by assiduous admonitions, to give their consent."* And further, to demonstrate the absurdity of allowing the voice of the people to have any force or effect in determining the suitableness of a minister for the charge to which he may have been nominated by the patron; his

Lord Medwyn's elaborate speech: a storehouse for the moderate party. His lordship treats the call as a usurpation.

Lord Corehouse and his ancient ecclesiastical authorities.

* Robertson's *Report*, vol. ii., p. 220.

CHAP. VIII. lordship recited the case of the apostles at Ephesus! 1838.

Paul and Barnabas were not acceptable at Ephesus!

"When the apostles first preached at Ephesus they were by no means acceptable; and it was not a majority of the male heads of families then who objected,—we are told that the whole city rose and rushed into the theatre, threatening them with personal violence!" His lordship saw no difference whatever between the judgment of a mob of depraved and godless heathens, and that of a christian congregation, on the question of a minister's fitness to edify the soul. His inquiries, it would appear, had not brought him in contact with the exhortation which scripture addresses to the members of the christian church, "to try the spirits." And yet it seems natural to think, that the giving of such an injunction implies the competency to form a judgment, and also the propriety of some deference being paid to that judgment when actually pronounced.

Seven judges in succession condemn the call.

Seven judges in succession had thus concurred in condemning the call, before a single contrary opinion had emanated from the bench. At this point, however, it began to appear that the court was by no means unanimous. One after another, five of the remaining judges, and these not certainly the least distinguished among their colleagues either for legal learning or for that grasp of mind and precision of thought which know how to seize and distinguish the essential principles of a system, took up a ground upon the question of the call the very opposite of that which their brethren had maintained. It has been already stated that the *illegality* of the proceedings of the presbytery of Auchterarder, and by consequence of the act of assembly, 1834, must needs imply the nullity of the call. Having shown, by a singularly lucid and powerful statement, that the claim of the pursuers assumed this to be the fact, Lord Fullerton said, "Looking then at the proceedings of the presbytery, combined with the enactments of the general assembly in

Five judges in succession take an opposite view.

1838. which they are rested and the terms of the summons, I think these inferences are inevitable: That the presentee in this case was rejected on the ground of the insufficiency of the call, and that your lordships are called upon to declare the illegality of that rejection, on the ground that no call or concurrence on the part of the parishioners is required to support a presentation, and that no bar can be interposed between the admission of the presentation and the taking the presentee on trials, and his ordination and induction if these trials are satisfactory. That I must consider to be the question now at issue. And it is needless to state, that whether the extent of its operation be considered or its bearing on what has been immemorially treated as the law and authorized practice of the church, it is a question of the greatest importance."* Lord Fullerton was clearly of opinion, that the act of Queen Anne restoring patronage left untouched all that portion of the preceding law of 1690, which recognised the congregation's right to approve or disapprove of the presentee. But, even if this should not be insisted on, he held it to be indubitable that the uninterrupted and unvarying usage of the church in maintaining the call, even under the act of Queen Anne, and that without challenge for 150 years, made the call "as completely and effectually part of the law of the land as if such form (of a call) had been inserted expressly in the act of the 10th of Queen Anne" itself.† It had been argued, indeed, by some of the judges on the other side, as well as at the bar, that the charge of illegality might stand good against the rejection of Mr. Young without necessarily involving the illegality of the call; because his rejection proceeded on the ground of the dissent or veto of the congregation. In reply to all this, Lord Fullerton showed that it was utterly incon-

Lord Fullerton shows that the claim of the pursuers is to have, not the Veto-law merely, but the *call* declared illegal.

Maintains the call to be part of the law of the land.

* Robertson's *Report*, vol. ii., p. 259. † Ibid., p. 264.

CHAP. VIII. sistent with the summons of the pursuers, which was "quite explicit, that *ante omnia* and without any condition or limitation whatever, the presbytery were and are bound and astricted to make trial of the qualification of the presentee;" and that it was equally inconsistent with common sense and the nature of things, it being "impossible to separate the dissent from the call," the dissent being "only one of the means taken by the general assembly to determine whether a call should be sustained or not." The mere circumstance that this means of testing the sufficiency of a call had been prescribed by a standing law of the church, could not possibly make it illegal. If the assembly had a right to test the sufficiency of a call judicially in each case as it arose, it could not, as Lord Fullerton well remarked, be "*ultra vires* of the general assembly to enact, generally and prospectively, that in all cases there should be exacted something which they had a right to exact in every particular case which came before them." It was obvious, indeed, that no dependence was placed on the contrary argument even by those who used it; for, as has been distinctly shown, both the counsel of the pursuers and the judges who supported their claim contended for the absolute nullity of the call, judging evidently that on this footing alone could their charge of illegality against the church's proceedings be made good. "When I look, then," said his lordship, summing up his views as to the alleged *illegality* of Mr. Young's rejection, "to the very general terms of the act of Queen Anne, directing how presbyteries are to admit—at the principles immemorially held by the church against intrusion, meaning by that, settlements independent of the concurrence of the people—at the constant practice, since the act of Queen Anne, of never dispensing with a call, on which the ecclesiastical courts were sole judges—when I look at the numerous instances in which presentees have

1838.

The Veto-law simply a means of testing the sufficiency of the call.

If the Assembly could decide in each case judicially what is a good call,—they could declare it once for all by a general law.

The practice of the Church for 150 years, unchallenged in any civil court, demonstrates the legality of the right of call.

1838. been rejected on the ground of the insufficiency of the call, and find that, *in no one instance has there been any challenge by patrons or presentees in a civil court, either of such rejection or of the form requiring a call as a condition superadded to the presentation*,—I cannot avoid the conclusion that the requisite of some concurrence on the part of the parish, of which the sufficiency is to be judged of exclusively by the church courts, is, by law, part of that form of the admission of ministers, according to which alone presbyteries are bound to admit the presentees of patrons."* Lord Moncrieff concurred with Lord Fullerton in his interpretation of the act of Queen Anne, and held it to leave untouched the right of the congregation to approve or disapprove. At the same time, like Lord Fullerton, he was thoroughly satisfied that, independent of that consideration, the matter was "absolutely closed and settled by the *practice* ever since the date of that statute of Queen Anne." Lord Jeffrey was of the same mind with Lords Moncrieff and Fullerton as to the meaning of the act of Queen Anne. That act declared that with the exception of transferring the initiative, the right of presentation, from the heritors and elders of the parish to the patron, the admission of ministers was left to proceed "in the same manner as persons presented *before the making of this act* ought to have been admitted." To say, as was said on the other side, that "before the making of this act," of 1712, must be understood to signify, before the making of a totally different act, that, namely, of 1690, appeared to Lord Jeffrey to be "altogether extravagant." "Nor is there anywhere, I believe," added his lordship, "an example of such a perversion of clear and unambiguous expressions being suggested."† Even admitting the extravagance, however, the

CHAP. VIII.

Lord Moncrieff takes the same view.

Lord Jeffrey's remarks on the act of Queen Anne.

* Robertson's *Report*, vol. ii., p. 270. † Ibid., p. 386.

CHAP. VIII. unchallenged practice for a century and a half of the church courts was enough in his judgment to decide the question in dispute. "When I consider," said Lord Jeffrey, "how much painful discussion and costly litigation took place for the better part of a century upon this very subject of the sufficiency or insufficiency of *calls*, and how many parishes were left vacant and destitute for a long course of years in consequence, I confess it is impossible for me to believe that it really was all this time in the power of any one patron or presentee to come *to this court*, and maintain, as I understand the pursuers do now, that the existence or sufficiency of a call was no necessary proceeding in the settlement, but a mere idle or mischievous ceremony, and that the presentee was fully entitled to go on without it. That such an argument was never started during all that time by any of those who had so clear an interest to maintain it, or by any of their learned advisers, is conclusive in my mind against the possibility of its soundness, opposed, as it now is, by the accumulated usage and settled opinion of all the intermediate period."* Lord Glenlee, one of the ablest men and most accomplished lawyers that ever adorned the judicial tribunals of Scotland, and whose great age made him the natural representative of the views that were held on such questions by the men of a former generation, while his unabated intellectual vigour, his venerable character, and his manifest freedom from all possible bias or prepossession upon the matters in dispute, lent peculiar weight and force to his judgment, concurred in maintaining the perfect legality of what the church had done. The church, he conceived, was manifestly both entitled and bound to ascertain the fitness of every presentee for the particular charge to which he had been nominated. Acceptableness

1838.

The fact that the call had never been questioned before, was a clear proof that it had a firm footing in law.

Lord Glenlee's opinion.

* Robertson's *Report*, vol. ii., p. 388.

1838. to the congregation was, by the law and practice of the church, a necessary part of that fitness, and Mr. Young had it not. The act 1834, was simply the test by which his want of fitness was ascertained. "Upon the whole matter," said his lordship, after submitting his views, "it may be that this act is an improper act, but, for the life of me, I cannot find myself at liberty to say that the act is *ultra vires.*"* On the subject of the call, Lord Cockburn observed, "I cannot discover an accurately known period of our history in which some such call has not prevailed. I could not have been more surprised on being told that presbytery was not the church of this country, than I have been by learning that calls, except as forms, are no part of our presbytery; they seem to me to be absolutely imbedded in the constitution and in the practice of the church. The solicitor-general quoted some strong instances from the proceedings of the assembly for several years after the final establishment of presbytery (patronage?) in 1711, to show how efficaciously calls were then enforced. Lord Moncrieff explained how these examples were succeeded by the cases of Cromarty, St. Ninians, Glendevon, Currie, and other parishes, all showing that it never was the feeling that the call was not a real and practical thing. No doubt there came a period during which, under Principal Robertson's guidance, its efficacy was relaxed. Those who, in his day, had the wisdom to enforce the law of patronage had also the weakness to imagine that they supported patronage when they repressed every popular claim by which its abuses might be checked, and therefore they repressed the call. It may have been wise in them to do so; but though the assemblies of that day made the call as insignificant as they could, they saw that circumstances might change, and they never attempted

Lord Cockburn's opinion: no known period, in history of the Scottish Church, in which the call was not maintained.

Lord Cockburn's remarks on the policy of Principal Robertson.

* Robertson's *Report*, vol. ii., p. 359.

CHAP. VIII. to anticipate and exhaust the future legislation of their successors. They never abolished it in practice, and never even attempted to strike it out of the system: all that they did was, that, exercising their own discretion, in their own day they tried to make the call, *so long as it was administered by them*, insignificant; but they still left it to be stated as a fact at this hour, that for the last 150 years, or thereby, not a single clergyman has been admitted into a church without a call given by the people, accepted by the presentee, and approved by the presbytery."* 1838.

Lord Cunningham agrees with the majority of the judges in condemning the call.

Lord Cunningham, who, as the youngest judge, gave his opinion last, concurred with the majority in denying that the call had any legal standing whatever, and consequently in maintaining that the act of assembly 1834 on the subject of calls, and the proceedings of the presbytery of Auchterarder under it, were altogether illegal.

The rejection of Mr. Young under the Veto-law, thus held to be illegal by eight out of thirteen judges.

It will be seen from this narrative, that eight out of the thirteen judges of the court of session, were agreed on the first of the two leading points contended for by the pursuers, —namely, that the rejection of Mr. Young, under the act 1834, was an "illegal" proceeding. Their views on the second, and in its ultimate consequences, still more important point, remain to be considered. That point involved the question of the civil court's competency to redress the wrong which the "illegal" proceeding complained of had caused,

The second point in the case remains: what redress can the court give?

or even to pronounce upon its illegality at all. If the proceeding in dispute was a matter ecclesiastical, had the civil court the jurisdiction necessary to enable them to deal with it? Grant that the church had gone wrong, by rejecting Mr. Young on a ground not recognized by the statutes, did it follow that the court of session were entitled to interfere; and if so, how far did their right of interference go?

* Robertson's *Report*, vol. ii., pp. 402, 403.

1838. Allusion has been already made to the principles that were laid down by the Dean of Faculty in his speech at the bar, with a view to make out a jurisdiction as belonging to the court of session, broad enough to cover all his demands and designs. It was in discussing this general question of jurisdiction, that sentiments were uttered by several of the judges which sanctioned to the very uttermost that theory of the relations of the state with the church, which the pursuers' counsel had maintained, and which was shown to be so entirely subversive of the spiritual independence of the church. To go over in detail the opinions and arguments of all the judges on this vitally important subject, would involve much needless repetition. The whole case may be made sufficiently intelligible by selecting two of the leading judges who took opposite views of the question, and placing over against one another their conflicting views. The discussion, as will be seen, and as was formerly hinted, goes deep into the very essence of the disruption conflict. CHAP. VIII.

Opinions of the judges on the great question of jurisdiction.

It will be remembered that in an earlier part of this work reference was made to a speech delivered by the Lord President Hope, as an elder in the general assembly of 1826, in which he had developed that erastian theory of the entire subjection of the courts of the church to the courts of the state, the subsequent enforcement of which brought on the disruption. It was then regarded as the mere legal idiosyncrasy of an old high-tory judge, and though out of deference to his lordship's character and office, it was very fully and effectively answered on the spot, by Dr. Macgill and by Mr. (now Lord) Moncrieff, it was no more thought of. It was to that speech, spoken twelve years before, that the lord president evidently alluded when he said from the bench in 1838—"This question is not new to me. I had occasion some years ago, when I had the honour to be a member of the general assembly, to consider with great

Lord President Hope refers to his speech in the Assembly of 1826.

CHAP. VIII. care and attention *the powers of the church in its relation to the state.* The question then was different, but it led me to the very same research and inquiry which are necessary to enable me to form an opinion on the present case." His opinion on the grand question of jurisdiction he proceeded accordingly to announce,—and it is not unimportant to notice that by his lordship's own confession it grows primarily and radically out of a mere assumption. "Before entering," he says, "on the consideration of the different statutes relating to the church, I must remark that in every civilized country there *must* be some court or other judicature, by which every other court or judicature may be either compelled to do their duty, or kept within the bounds of their own duty; without this the greatest public confusion must follow, and often great injustice to individuals." Having adopted this sweeping conclusion, he acknowledges that after all he does not know "how this end is accomplished in most of the countries of Europe." France is his only continental instance, and its court of cassation is the tribunal in which he finds the kind of super-eminent jurisdiction for which he contends. "It," he says, "has the power of keeping all other judicatures within the bounds of their proper province." Another example he discovers in the court of queen's bench, in England, which is known to have asserted its authority over courts martial, and to have issued a *mandamus* "to compel a bishop to admit a person as a prebendary in his cathedral;" nay, to have even bearded and controlled the house of commons itself. "In *like manner*," said his lordship, after narrating these cases, "as will appear afterwards, this court has exercised jurisdiction over presbyteries when exceeding their powers, or when, in the course of their proceedings, they encroached on civil and patrimonial interests." It is certainly singular enough, that after this peremptory assertion, his lordship should

1838.

His whole argument founded on a mere assumption.

Refers to the court of cassation in France, &c.

Assumes, without attempting to prove it, that the Court of Session has the super-eminent jurisdiction contended for.

1838. have failed or forgotten to adduce so much as one solitary example to make it good. Such, notwithstanding, is the fact. He indulges, indeed, in additional and strong averments. He affirms, for instance, that the act 1592, while it ratifies the church's liberties, does not by any means ratify them as "liberties which are acknowledged as belonging to the kirk *suo jure*, or by any *inherent* or *divine* right, but as *given and granted* by the king or any of his predecessors." And this affirmation is made in the face of the fact, that this very act 1592 in so many words declares the contrary,—declares that the church has liberties *suo jure*, or by divine right—and specially, that the "collation of ministers," the very matter out of which the Auchterarder case arose, is a privilege which "God has given to the office-bearers of his church." Further on, his lordship, with less perhaps of decorum than of dogmatism, gave this summary of his views on the point in hand: "That our Saviour is the head of the kirk of Scotland, in any *temporal*, or *legislative*, or *judicial* sense, is a position which I can dignify by no other name than absurdity. THE PARLIAMENT is the temporal head of the church, from whose acts, and from whose acts alone, it exists as the national church, and from which alone it *derives all its* powers."* Grant this, and undoubtedly a foundation will be laid, broad enough to carry, not merely such an abstract finding as the pursuers in this case craved,—but to carry all those practical applications of it, beneath which the spiritual liberties of the church were at length crushed and destroyed.

CHAP. VIII.

The act 1592 contradicts the assertion of the Lord President.

His lordship's unqualified assertion of the erastian principle.

Speaking to this question of jurisdiction, and with the statements of the lord president, and of those other judges who more or less concurred with him, in his eye, Lord Jeffrey said, that as "something had been thrown out as

Lord Jeffrey on the question of jurisdiction.

* Robertson's *Report*, vol. ii., pp. 2, 4, 5, 10.

CHAP. VIII. if this court possessed some super-eminent and peculiar power of correcting, or at least declaring, the errors or excesses of power of other independent judicatures, I think it right to say in the outset, that whatever may be the case with the court of cassation in France, or even with the court of queen's bench in England, I am unable to discover the traces of any such prerogative, or extraordinary authority, in the court of session. In our judiciary system I take it to be clear that no tribunal has, either on review or originally, an unlimited jurisdiction over all the rights and interests of the subject. On the contrary I think we recognize, in our judiciary establishment, several supreme courts of co-ordinate and independent jurisdiction; each of which has a specific and well-defined province, within which alone it has any authority or power of acting,—and beyond which it has, in no case, any right to trespass, so as to encroach with effect upon the province or jurisdiction of another. This court, in particular, possessing within its own province as large powers, both in law and equity, as any court can possess, has by no means an unlimited or universal jurisdiction even in questions of civil right. Till very lately, it had no original jurisdiction in proper consistorial cases, which belonged to the commissaries; nor in proper maritime cases, which were for the admiral; and even now it has no jurisdiction whatever in proper fiscal or revenue cases, which are exclusively for the court of exchequer; nor can it take cognizance even of ordinary actions of debt, unless the sum is above £25, or the question is with one of its own members. But at all events, it has no proper jurisdiction except *in civilibus*. With a few exceptions, not affecting the principle, it has no jurisdiction in *crimes*; and with no exceptions at all, it has none whatever in matters properly *ecclesiastical*; and especially none as to the examination, ordination, or admission of ministers;

1838.

Denies that in the judiciary system of Scotland there is the shadow of a foundation for the Lord President's argument.

The Court of Session has no jurisdiction except *in civilibus*.

It has no jurisdiction whatever in matters ecclesiastical.

1838. which are not only in their own proper nature ecclesiastical proceedings, but are expressly declared by the acts of 1567 and 1592 to be exclusively for the church judicatures."

To say, in reply to all this, that, granting the proceedings complained of were ecclesiastical, they had affected civil and patrimonial interests,—and that, therefore, the civil court had jurisdiction to control them, were, in other words, to say that the church has no exclusive jurisdiction whatever, and that there is no limit to the jurisdiction of the courts of law. "It can only require to be suggested," observed Lord Jeffrey, "that though what the presbytery did, or refused to do, may, *in its consequences*, affect the civil interests of the pursuers, this can obviously afford no ground for saying that they adjudicated upon such interests; or that a civil court may therefore interfere with proceedings which were, in other respects, within their proper ecclesiastical province. There can hardly be any proceeding of any court which will not in this way affect the civil interests of the parties concerned. Take the case of a court of criminal jurisdiction, for example. Is there any punishment which it can award that will not most deeply affect the patrimonial interests of the culprit and his family? If a father is transported, are not the patrimonial interests of the children affected as well as his own? But does the court of justiciary, therefore, adjudicate on civil interests? Or can this court be called on to consider whether its sentences were illegal, because a strong civil interest might be advanced by finding that they were? In the same way, when the general assembly *deposes* a clergyman for heresy or gross immorality, his civil interests, and those of his family, necessarily suffer to a pitiable extent. But is the act of deposition the less an ecclesiastical proceeding on this account? or can it, therefore, be subjected to question before your lordships?"

Lord Jeffrey exposes the fallacy of th notion that because a judgment of the Church courts may, *in its consequences*, affect civil interests, that therefore the judgment is to be held as a judgment upon civil interests.

In reference to another argument employed to vindicate

CHAP. VIII. the court's jurisdiction—namely, that the claims of the pursuers amounted to nothing more than a demand that Mr. Young should be taken on trials—Lord Jeffrey exposed the sophistry, if not the disingenuousness, which lurked under this plea, in the following forcible terms:—"It is quite in vain to take distinctions, or to disguise the difficulty, by dividing the process into its several stages. What is asked for this presentee is *full admission* to the office of the ministry, and nothing else. I, for my part, think the whole of the proceedings, after sustaining the presentation, are properly ecclesiastical; but at all events, it is clear that the concluding and most important part of them is purely so. And if that cannot be dispensed with, and is distinctly required by the pursuers, how can we possibly decern the presbytery to admit, without intruding, in the most flagrant manner almost that can be imagined, on their sacred and peculiar province? It would be but a little greater profanation, if we were asked to order a church court to admit a party to the communion-table whom they had repelled from it on religious grounds,—because he had satisfied us that he was prejudiced in the exercise of his civil rights by the exclusion." Finally, in regard to that famous maxim of the Dean of Faculty—so much countenanced also on the bench—that there "can be no wrong without a remedy," —a maxim which has since been made not only to stand in the room of statute law, but to drive statute law to the wall, —Lord Jeffrey, with that philosophic accuracy of thought and power of discrimination, for which he was so remarkable, laid bare at once the fallacy on which it rests. The maxim assumes that some one court is infallible, and that it can and will certainly correct all the wrongs which the others may do. "The truth is," remarked Lord Jeffrey, "that no system of mere jurisprudence can ever afford redress for such occasional errors or excesses of power by supreme

1838.

Exposes the plea that the pursuers sought only to have Mr. Young taken upon trials.

What they want is the admission of the presentee, and this cannot be accomplished without ordination.

Lord Jeffrey on the Dean's famous maxim, "that there can be no wrong without a remedy."

The maxim is not true.

1838. courts, while acting within their several departments. When they trespass on the province of other courts, the remedy is for those courts totally to *disregard* the usurpation, and to proceed with their own business, as if no such intrusion had occurred. The law and the constitution presume that no such excesses will be committed; and they trust as much to one supreme court, or to the judicial establishments in one department of law, as to another: and certainly have not invested any *one* with any peculiar visitatorial right of going out of its own department, to note the errors of another. In the theory of the constitution, the supreme courts of the country are held to be nearly as incapable of doing wrong as the sovereign herself,—and though known to be fallible in fact, are presumed to be so *equally* fallible, as not to be trusted with the correction of each other's errors."*

The constitution presumes the supreme courts to be so equally fallible, that it has not entrusted any one with the correction of the errors of the others.

This is the compendious and conclusive answer to all those monstrous suppositions,—"what if the church should do this, and what if the church should do that,"—that were so freely made both at the bar and on the bench, by way of showing the danger of conceding the church's claim to an independent jurisdiction. To talk of there being no wrong without a remedy, and to assume that the only way to secure the remedy is to give a right of review to the civil court, is neither more nor less, as Lord Fullerton cuttingly observed, than "to reverse the ancient error, and to provide against the possible fallibility of the church by the supposed infallibility of the court of session."

Lord Fullerton's cutting observation on the Dean's maxim.

On the ground of those views, which the minority of the judges took regarding the call, and the church's right to regulate it, they were decidedly of opinion that the proceedings complained of were strictly legal, and such as ought to carry all the usual civil consequences after them. But,

* Robertson's *Report*, vol. ii., pp. 363, 372, 383.

CHAP. VIII. further, on the ground of their views of the other and larger question of jurisdiction, they were not less clear,—that even if the proceedings in question had been illegal, yet, being proceedings in a matter ecclesiastical, it did not belong to the court of session to pronounce upon their illegality. It might disregard these proceedings in so far as any civil results following from them were concerned, but it would be going altogether out of its own province to find, by a general declarator, that the whole complex act of the presbytery of Auchterarder, in which undeniably matters ecclesiastical were involved, was contrary to law. 1838.

The minority of the judges held the Veto-law to be legal: and they further held that even if illegal, it did not belong to the Court of Session to interfere with the purely spiritual proceedings of the Church Courts under it.

The majority of the court, however, were of a different mind, and their judgment was as follows:—

"EDINBURGH, *March* 8, 1838.

The judgment of the court.

"The lords of the first division having considered the cases for the earl of Kinnoull, and the Rev. Robert Young, and for the presbytery of Auchterarder, with the record and productions, and additional plea in defence admitted to the record, and heard counsel for the said parties at great length, in presence of the judges of the second division, and lords ordinary,—and having heard the opinions of the said judges, they, in terms of the opinion of the majority of the judges, repel the objections to the jurisdiction of the court, and to the competency of the action as directed against the presbytery: further repel the plea in defence of acquiescence: find that the earl of Kinnoull has legally, validly, and effectually exercised his right as patron of the church and parish of Auchterarder, by presenting the pursuer, the said Robert Young, to the said church and parish: find that the defenders—the presbytery of Auchterarder—did refuse, and continue to refuse, to take trial of the qualifications of the said Robert Young, and have rejected him as presentee to the said church and parish, on the sole ground (as they admit

1838. on the record) that a majority of the male heads of families, communicants in the said parish, have dissented, without any reason assigned, from his admission as minister: find that the said presbytery, in so doing, have acted to the hurt and prejudice of the said pursuers, illegally, and in violation of their duty, and contrary to the provisions of certain statutes libelled on; and, in particular, contrary to the provisions of the statute of 10 Anne, c. 12, entitled 'an act to restore patrons to their ancient rights of presenting ministers to the churches vacant in that part of Great Britain called Scotland:' in so far repel the defences stated on the part of the presbytery, and decern and declare accordingly, and allow the above decree to go out, and be extracted as an interim decree: and, with these findings and declarations, remit the process to the lord ordinary to proceed further therein, as he shall see just." CHAP. VIII.

(Signed, 10th March.) C. HOPE, *I.P.D.*

Such was the decision pronounced by the court of session in the celebrated case of Auchterarder. The voice of the oracle was of somewhat dubious import. So far, indeed, it was plain enough. In finding that the presbytery had acted contrary to the statutes, in making the dissent of a majority of the heads of families a ground for rejecting the presentee to the parish, it was obviously ruled that the law of the church regulating the title to the cure of souls, was not in harmony with the law of the state regulating the title to the benefice. But as to everything beyond that general doctrine, the decision left all parties in complete uncertainty. The lord president himself, who as the organ of the court, pronounced the judgment, was not sure what would follow if the presbytery, in the face of the decision, should "persist in refusing to take trial of the presentee." He had "doubts" whether, in that event, Mr. Young, Effect of the judgment.

CHAP. VIII. unadmitted, and unordained, could get the stipend. He 1838.
"had also doubts" whether, in the face of the act relating to the widows' fund, the patron could get the stipend. The only point on which he had no doubt was this, "that no *other* person (except Mr Young or Lord Kinnoull) ever can have a legal right to the stipend, unless the pursuer is rejected, on examination, as not properly qualified." In a word, the deed of the presbytery of Auchterarder had effected a severance in the case of that parish between the cure of souls and the benefice; but for anything contained in the decision, this was the entire result. Several of the other judges in the majority went farther than the president, it is true, and hinted pretty plainly, that the abstract and barren finding of 1838 might be made by and bye to bear bitter fruit for the church. There can be little doubt it was contrived for that end,—and as the event showed was capable enough of being so used. But still in itself it settled nothing more than what has now been described. At the same time, the form in which it was put, the assumptions on which it proceeded, taken in conjunction with those views of the court's jurisdiction, which so many of the judges had given forth, and with the hint thrown out by some of them, as to what their jurisdiction might enable them to make of this decision at a future time, were too well calculated to excite alarm. The church could not fail to see that while the blow had not yet been struck, and that her spiritual independence was still entire, this bald, and for the pursuers seemingly useless decision, might come to be made the means of levelling her liberty with the dust.

The Lord President was not sure what would follow in the event of the presbytery refusing to take Mr. Young on trials.

The Church is alarmed by the views of the judges.

Influenced by such considerations as these, a large number of the most influential synods and presbyteries transmitted overtures upon the subject to the general assembly, calling upon that venerable court to adopt such measures as might seem to be requisite for the purpose of vindicating

The inferior Church courts address the General Assembly, on this subject.

1838. the menaced constitution of the church. The necessity of taking some decided course was not diminished by the use which Mr. Young, the rejected presentee to Auchterarder, had meanwhile been making of the court of session's decree in his favour. Armed with that judgment, he had returned to the presbytery and demanded to be taken on trials. This requisition implied, of course, that the presbytery was to set aside both its own sentence and the law of the church upon a matter spiritual, solely out of deference to the decision of the court of session; and when the presbytery, in answer to so unusual and offensive a proposition, determined to refer the whole matter for advice to the synod, Mr. Young, instead of acquiescing in this very modest and guarded resolution, handed in a notarial protest, by which he held the members of the presbytery, conjointly and severally, liable to him in damages for doing as they had done. This was a tolerably distinct indication of what was to be expected in the following up of the Auchterarder case, in the event of the court of session's judgment being affirmed by the house of lords. Had it been possible to regard this conduct as the mere rash and reckless act of the presentee himself, it might have awakened no other feelings than those of disgust or pity; disgust at the grossly secular spirit that could allow a licentiate of the church thus to grasp at the fleece at the expense of scattering the flock; or pity for the state of mind that could prompt him, in such circumstances and by such means, to attempt to intrude himself into the office of the holy ministry. But Mr. Young was notoriously little better than a puppet in the hands of others. This new step could not, therefore, be otherwise regarded than as a further development of those views at which his legal advisers, in their pleadings at the bar of the civil court, had pointed, and as a fresh note of warning to the church, that the conflict now begun might ere long be carried into

Mr. Young attempts to compel the presbytery of Auchterarder to take him on trials: and threatens them with damages for refusing.

Mr. Young: the feelings his conduct was fitted to excite.

CHAP. VIII. the very sanctuary of her most sacred prerogatives. It was 1838.

The Assembly could not now go farther in the courts of law, without first making a formal declaration of the views and intentions of the Church.

impossible, indeed, in such a state of things, that the general assembly could consent to appeal the Auchterarder case from the court of session to the house of lords at all, without first giving forth such a declaration of its own views and intentions in regard to the great cardinal principles which had been brought into dispute, as would prevent any subsequent misconstruction of the church's conduct. It had become altogether indispensable that there should be no pretence left at any after period for insinuating that she had put herself into the hands of the courts of law, and then refused to abide by their sentence when it was found to have gone against her.

The Assembly of 1838: Mr. Buchanan's speech on the independence of the Church.

In the general assembly of 1838, on Wednesday the 23d of May, the overtures on the independence of the church having been called for, the Rev. Robert Buchanan, of Glasgow, rose to address the house. "It will be readily allowed," he said, "that the question now brought by these numerous overtures under the consideration of this venerable house is one of fundamental importance. The question of the church's spiritual independence is a vital question. It touches directly and deeply, not merely the church's interests, but the church's character. It bears immediately and essentially, not only on the welfare of the church's members, but on the authority and honour of Him who is her blessed Head. And never, since the hour when the reformed presbyterian church of Scotland was originally founded, have the great principles that question involves been assailed or threatened, without finding this assembly prepared, at whatever cost, resolutely to assert and defend them. In proposing, therefore, in accordance with the prayer of the overtures now upon the table, to issue a declaration in support of these principles at present, the only possible difference of opinion that can arise must be limited to this single

Vital importance of the question.

1838. consideration,—whether at present there be any sufficient call for such a declaration being made? The doctrine of the church's spiritual independence, it may be argued, is already abundantly well known. It is laid down broadly and conspicuously in our confession of faith. It is recorded in our books of discipline. It is inscribed, and that not unfrequently, in characters of blood, on many of the brightest and most memorable pages of our ecclesiastical history. Like some ancient banner which has been borne in triumph through many a hard fought field, it hangs honoured and venerated within our church's armoury: and there is no cause, it may be thought, why we should now be shaking the dust from its folds and flinging it again abroad to the winds of heaven. That the framers and supporters of these overtures have arrived at a different conclusion, is sufficiently plain: and if the assembly will grant me the indulgence I so greatly need, I shall not despair of being able to adduce some considerations that may perhaps serve to show, that the view they have taken of the subject has not been adopted on slight or trivial grounds." Having alluded to the controversy which had for some years been so hotly maintained against the lawfulness of church establishments, and to the assumption which their opponents in that controversy had made, that the establishment principle involved in it, of necessity, the surrender to the state of the church's spiritual freedom,—the speaker frankly admitted, that if it were really so, there would be an end of the discussion. No church could ever be justified in binding itself to obey another master than Christ. But the constitution and history of the church of Scotland had always been their ready answer to that anti-church-and-state argument. Here in this living example was the very condition of things which was pronounced to be impossible,—a church endowed by the state, and yet the sole mistress of her own spiritual

Is it necessary at this time to issue a declaration on the subject?

The numerous overtures on the table of the Assembly, call for such a declaration—and with reason.

The voluntary controversy: and the argument in favour of Church Establishments, hitherto furnished by the case of the Church of Scotland.

CHAP. VIII. affairs! If, however, the views that had recently been promulgated in high quarters had any foundation, this defence of establishments could be pled no longer. "It is to be presumed," said the speaker, "the members of assembly are well aware there has recently issued from the press a report of the proceedings of the court of session relative to the Auchterarder case,—a report which bears upon its title-page to have been 'published by authority of the court.' In that voluminous report there are contained assertions in reference to the church's independence, given as employed by eminent counsel on one side of the case, to which I shall not more specially allude, because I am well aware that a privilege of which we have all heard, under the name of the 'poetic license,' is a privilege well known at the bar, and by common consent allowed. If, however, I must venture to advert with greater minuteness to certain expressions of a similar kind, which are reported as having fallen from the bench, I hope it will be understood that I do so with all becoming respect and deference. But it is just because the quarter from whence these expressions have proceeded is so high and influential,—because both professional learning and eminent official station combine with private worth to lend weight and authority to the opinions thus pronounced, that it is impossible to maintain silence regarding them. And certainly it does not diminish the pressure of that necessity which lies upon the assembly to repudiate those opinions, that they were delivered in some cases by individuals, who are not only judges of the court of session, but elders of the church of Scotland." 1838.

Speeches of the counsel against the Church in the Auchterarder case.

Speeches of the judges.

After quoting some of the strong and unqualified statements already noticed in the account of the Auchterarder case, in which certain of the judges had indulged, when speaking of the state's alleged supremacy over the church, Mr. Buchanan proceeded to set over against them the

The opinions of the judges contrasted with the statements of the standards of the Church.

1838. directly contrary doctrine of the books of discipline and confession of faith, and to show how pointedly and expressly that contrary doctrine had been ratified by the law of the land. Having completed this general argument, by a review of the legal and historical evidence upon the subject, he next brought it to bear upon the matter more immediately in hand. "To apply this grand doctrine of the church's independence to the late civil proceedings in the Auchterarder case, might require more of the time of this assembly than I dare venture to occupy; but the process is as simple as its result is satisfactory. That case arose out of the act on calls, passed by the church in 1834. The object of that act was to give full force and effect to the fundamental law of the church—'that no pastor be intruded on any congregation contrary to the will of the people.' That such a law was laid down by the church from the beginning of its history, cannot be denied. We meet with it in the very infancy of the church in her first book of discipline: in the second book it is pointedly repeated: again at the restoration of presbytery in 1638: in the directory of the assembly 1649: and long after, in 1736, four and twenty years after patronage, in its present form, had been restored, it is declared by the assembly, in the most solemn terms. That this fundamental law of the church had, at the same time, in a parallel course of civil statutes, been recognized and ratified by the state is equally clear. The act 1567, of course having in view the law of the church as to non-intrusion, expressly and exclusively put into the hands of the church, as then 'publicly professed' within the realm of Scotland, the whole power of 'the examination and admission of ministers,'—reserving, indeed, the right of presentation to the ancient patrons, but reserving it under the restriction and limitation manifestly implied in leaving the whole matter of the trial and settlement of the ministers

Doctrine of the Church's independence in matters spiritual applied to the Auchterarder case.

The principle of non-intrusion traced through the entire history of the Church.

The civil law relating to the examination and admission of ministers.

CHAP. VIII. presented, to the church herself,—whose laws, therefore, on that point, are plainly ratified and confirmed. This act 1567 was confirmed by that of 1581; and this latter again by the statute 1592,—in which, while the powers conferred on the church by former statutes are confirmed, it is further specially provided and declared, that 'Presbyteries shall have full power to give collation upon all presentations to benefices, and to put order *to all matters and causes ecclesiastical* within their bounds, *according to the discipline of the kirk*.' Now I have no intention of going into the question whether or not the act of assembly 1834, by which intrusion was defined to mean a dissent by a majority of male heads of families communicants, was or was not a wise and salutary measure. It is enough for me that a majority of the presbyteries of the church deliberately declared this to be their judgment, and that the church in consequence passed it into a standing law. But what the assembly is concerned with at present is, not the wisdom of the church, but the competency of the church in making such a law at all. I am well persuaded, that even among those who objected to the passing of the law on grounds of expediency, there are many as much prepared as I am to contend for the church's full right and authority to make it; and who will be as ready to join in disclaiming that jurisdiction which the civil court has assumed in venturing to pronounce it illegal. That the settlement of a minister is a matter purely ecclesiastical, is too obvious to need illustration. In all such matters, the policy of the church, as her own standards require, 'must lean upon the word immediately, as the only ground thereof, must be taken from the pure fountains of the scriptures, the church hearing the voice of Christ, the only spiritual King, and being ruled by His laws.' And never can she consent to renounce that fundamental article of her constitution, whatever be the cost at which she may

1838.

The act 1592 recognizes the right of the Church courts to dispose of all matters ecclesiastical, according to the discipline of the Church.

The competency of the Church to enact the Veto-law.

The Church's rule in regulating matters spiritual.

1838. be called to maintain it. What course she may find it necessary to pursue, in case that happen which I shall not anticipate, that the decision of the court of session shall be confirmed in the house of lords, it would not become me at present to offer an opinion. But this I will venture beforehand confidently to affirm, that she will never consent to abandon a law which she has made under a solemn conviction that it was imperatively required,—alike by a regard to the fundamental principles of her own constitution, to the spiritual welfare of her people, and to the honour and glory of her supreme and only Lord. To do so were to lay herself prostrate at the feet of her enemies,—to proclaim with her own tongue what they have injuriously and calumniously averred—that she has sold her birthright for what, in comparison, were more worthless than Esau's mess of pottage."

She cannot abandon her law as to a matter spiritual, so long as she judges it to be according to the will of Christ.

There was one other point which the emergency required that the assembly should look to, and this was to the conduct of her own ministers and licentiates. Mr. Young's proceedings might encourage others to a like defiance of ecclesiastical authority. The church "must not allow her own office-bearers to defy her own laws,—to employ the very status she has conferred upon them for the purpose of pouring contempt upon a jurisdiction they have sworn to obey. * * * The course which, in similar circumstances, was pursued by this church in the celebrated case of Montgomery, in 1582, was no new thing in the Christian church. The very same thing was done, 1200 years before, by the great councils of Antioch and Carthage. On this subject the following passage from Lauder's *Ancient Bishops Considered*, p. 289, is worthy of notice. 'If a minister,' he says, 'by the presbytery, synod, or assembly, should have recourse to the civil magistrate, king or parliament, for restoration, he would be looked upon by our church as very

The Assembly must look to the conduct of Mr. Young.

Ecclesiastical authorities condemnatory of the course Mr. Young is pursuing.

CHAP. VIII. unworthy of the office in all time coming. And this agrees 1838.

The councils of Antioch and Carthage.

with the twelfth canon of the council of Antioch, held in 342, which forbids clergymen, who have been deposed by their bishops, to address themselves to the emperor to obtain restitution, and takes from those who shall do so, all hope of being restored. And with the ninth canon of the council of Carthage, in 397, which ordains, that if a clergyman, being accused before the ecclesiastical tribunal, removeth the cause to the civil magistrate, though he even gain the cause, he shall lose his place.' How far, adds this author, were Christians from being erastians in those days." "The truth is," continued Mr. Buchanan, "such a course is prescribed by the very nature of things,—there can be no government unless those who are legitimately within its jurisdiction be compelled to obey it. But, as if to leave no loophole, no room for evasion, to any one who may be disposed to disregard so obvious a principle,—that principle has been embodied in the form of a solemn oath, which is sworn by every minister and probationer of this church. In that oath he swears that 'he will submit himself to the discipline and government of this church, and shall never, directly nor indirectly, endeavour the prejudice or subversion of the same.' The church has imposed this vow, and she must not allow it to be treated with mockery. If she has probationers who are ignorant or heedless of the obligations it imposes, it is her bounden duty to take order, to instruct them if they will hear her, and to punish them if they will obstinately disobey."

The vow of ecclesiastical obedience taken by every licentiate and minister of the Church.

After a solemn appeal to the assembly to realize its position and responsibilities, and "to adhere unalterably to those great principles of spiritual independence which were cemented into the constitution of the church of Scotland, by the blood of our martyred forefathers," the speaker concluded by laying the following motion on the table of the house:—

1838. "That the general assembly of this church, while they unqualifiedly acknowledge the exclusive jurisdiction of the civil courts, in regard to the civil rights and emoluments secured by law to the church, and the ministers thereof, and will ever give and inculcate obedience to their decisions thereanent; do resolve, that as it is declared in the confession of faith of this national established church, that 'the Lord Jesus Christ is King and Head of the church, and hath therein appointed a government in the hand of church-officers distinct from the civil magistrate,' and that in all matters touching the doctrine, government, and discipline of the church, her judicatories possess an exclusive jurisdiction, founded on the word of God, which 'power ecclesiastical (in the words of the second book of discipline) flows from God and the Mediator Jesus Christ, and is spiritual, not having a temporal head on earth but only Christ, the spiritual King and Governor of His Kirk.' And they do further resolve, that this spiritual jurisdiction, and the supremacy, and sole Headship of the Lord Jesus Christ, on which it depends, they will assert, and at all hazards defend, by the help and blessing of that great God who, in the days of old, enabled their fathers, amid manifold persecutions, to maintain a testimony even to the death, for Christ's kingdom and crown. And finally, that they will firmly enforce obedience upon all office-bearers and members of this church, by the execution of her laws, in the exercise of the ecclesiastical authority wherewith they are invested."

The resolution proposed for the adoption of the Assembly on the spiritual independence of the Church.

The way in which this motion was met by its opponents in the assembly was characteristic and curious. Dr. Cook, who led the opposition, was full of zeal for the spiritual independence of the church. "I am prepared to say," he observed, "that with a good part of what has been brought before you by my reverend and respected friend, Mr. Buchanan, I entirely agree; and there is no language

The resolution opposed by Dr. Cook.

CHAP. VIII. which he could use stronger than I would be inclined to adopt, to assert the spiritual independence of the church, and to vindicate the power which we have received from its great Head. * * * I entirely agree with my reverend friend that our church, the church of Christ, is not the creature of the state. We had our doctrines, our views, and principles, before we were connected with the state; and we would have them to-morrow if we were to sever that connection. * * * My reverend friend will find that if there is any opposition to this doctrine, if we conceived there was any danger of its violation, we and he would display the banner of our great King and Head, and, if necessary, under it we would perish." Brave words; but the real amount of their meaning and worth will soon appear. Having noticed the principle laid down in the second book of discipline, that in the courts of the church there should be no meddling with anything pertaining to the civil jurisdiction, Dr. Cook went on to say, "My argument is this, here is a clear admission that there are two distinct provinces, the spiritual and civil; these are expressly said to be essential and distinct; and this being the case, it is admitted and laid down that spiritual men shall not interfere with the department that is civil. So much for the second book of discipline. I now go to the confession of faith. It is there laid down that synods and councils do handle nothing but that which is ecclesiastical, and not to intermeddle with civil affairs that concern the commonwealth, except by humble petition in cases extraordinary, and so forth. It is quite manifest that the church, when this document was prepared, recognized this spiritual jurisdiction, and held, as a matter of jurisdiction, that the one province should not be invaded by those who were placed in the other." All, as yet, very sound and wholesome doctrine. There are two distinct provinces, the civil and ecclesiastical: the one is for

1838.

Dr. Cook's *exordium*, full of veneration for the independence of the Church.

The two provinces—the civil and ecclesiastical.

Dr. Cook's doctrine is so far unexceptionable.

1838. the cognizance of the state and its courts; the other for the cognizance of the church and its courts,—and neither is to intrude into the other's domain. But the important question still remains who is to decide whether or not, in any given case, the forbidden intrusion has actually been made? Is the church to be the sole judge? If so, Dr. Cook might well ask, "Where is this to stop?" In so far as the principle of such an arrangement is concerned, it could never stop anywhere short of that universal supremacy of the spiritual over the secular power which is still claimed, and was so long and so tyrannically exercised, by the church of Rome. But the case has two sides. Another question must be proposed before we have exhausted the difficulty. Are the courts of law to be the sole judge? If so, Dr. Cook's inquiry must surely be repeated again, "Where is *this* to stop?" It must be allowed to be at least a possible thing that the civil courts should step out of their own province, and declare *that* to be civil which is in reality spiritual. In the event of their doing so, is the church bound to give up its own jurisdiction, and to take its orders in that matter from the courts of law? Yes, replies Dr. Cook, without the least hesitation. "I hold," he says, "that when any law is declared by the competent (civil) authorities *to affect civil right*, the church cannot set aside such a law." And he affirms that any attempt to do so would be "to declare ourselves superior to the law of the land." This is, at least, a perfectly intelligible theory; and on the supposition of its being well-founded, it would be somewhat difficult to tell what was meant by the abolition, at the period of the revolution settlement, of the supremacy of the crown in matters spiritual. The presbyterian church of Scotland had consented to be disestablished, and to endure a bloody persecution of nearly thirty years' duration, rather than acknowledge that supremacy. And when the govern-

When a difference between the civil and ecclesiastical arises, which is to decide?

Dr. Cook gives the sole right of ultimate decision to the courts of law.

CHAP. VIII. ment and parliament of the revolution were proceeding to re-establish the presbyterian church, they paved the way for it by abolishing the royal supremacy in matters spiritual, as "inconsistent" with the religious system then about to be restored. On the footing of Dr. Cook's theory, that which was considered at the time, and for nearly a century and a half thereafter, a very substantial transaction, must have been in reality a delusion and a dream. The courts of law hold their jurisdiction from the crown; and the crown cannot delegate what it does not possess. If the crown has no jurisdiction in matters ecclesiastical, and the revolution settlement declares that it has none in reference to the presbyterian church of Scotland, it follows of necessity that none can exist in the courts of law. 1838.

On this footing it is not easy to understand what was gained by abolishing, at the Revolution, the royal supremacy in matters spiritual.

It is obviously a mere quibble to say in defence of Dr. Cook's position, that the civil court is not alleged by him to have jurisdiction, in matters spiritual, *as such;* but only in the event of their "affecting civil rights." Such a limitation is no limitation at all; it is a plea that will suffice to stretch the civil court's jurisdiction over the entire province of the church. There is no law or decision of the church of which it may not be affirmed that it *affects* civil rights. The refusal to admit a person to the Lord's table, in its own nature one of the purest instances of spiritual jurisdiction that can be conceived, can hardly fail to affect civil rights: it must needs affect the reputation of the individual concerned, and character is undeniably a matter of civil right; and because it does so, Dr. Cook's theory would entitle the civil court to nullify any law which the church might frame for protecting the purity of the communion table, and oblige the church to submit to any sentence, upon any case arising under that law, which the civil court might think fit to pronounce. The only difference between such a state of things and that which was abolished at the revolution,

Dr. Cook's apparent limitation of the civil court's right of interference comes to nothing.

The principle laid down by Dr. Cook would carry the courts of law over the entire field of matters spiritual.

1838. would be a difference merely nominal. Under the royal supremacy, the king and his courts could take up matters spiritual, as belonging *natively* to the secular jurisdiction. Under Dr. Cook's theory, the courts of law could equally take them up by simply holding, what always might be held, that they "*affected* civil right." CHAP. VIII.

It was another conclusion very obviously involved in Dr. Cook's views on this subject, that the serious contingency of "displaying the banner" of the church's Head, and marching forth from the walls of the establishment, was one which might be spoken of without much anxiety or alarm: that contingency could only arise when the church's independence was *really* invaded; but as, in order to save them from the charge of having made any such invasion, it was necessary for the courts of law only to say, there was something in the case that "affected civil right,"—the moment for displaying the banner could hardly be expected ever to arrive. According to his own theory, Dr. Cook was in no great danger of being ever called on to "display the banner of independence."

Mr. Dunlop, whose accurate knowledge of all questions connected with the constitution and history of the church, proved of such eminent service throughout that whole conflict in which the church was now embarked, put the question in its true light, and with his customary precision, when replying to Dr. Cook, in the following words: "The real point of difference between the two sides (of the assembly) was this, who was authoritatively to determine what was the spiritual jurisdiction of the church? Was the church, in guiding her own conduct, in matters spiritual, to take the decision of the court of session as the binding rule of her proceedings? This doctrine was involved in Dr. Cook's motion. If admitted, however, the independence of the church, in matters spiritual, was but a name, and it rested entirely on the arbitrament of the court of session. The only true rule in questions of conflicting jurisdiction of Mr. Dunlop's reply to Dr. Cook.

CHAP. VIII. supreme courts—even where there is no peculiarity, such 1838.
as that of the divine source from which the church's juris-
diction immediately sprung—was that in such cases each
court judged for itself in its own matters, and did not take
the determination of any other tribunal. Thus the court
of session, in determining in all civil questions, such as the
right to manse, stipend, or glebe, would act on its own con-
struction as to what was *ultra vires* or *intra vires* of the
church, and decide without regard to the determination of
church courts. Thus again, in matters spiritual, which
alone they could decide, as in regard to ordination, deposition,
or the like, the church would not be bound by the decision
of the civil court, which had no control over them in such
matters, but would to this effect determine for themselves."

The only true rule in questions of conflicting jurisdiction.

The amendment with which Dr. Cook had concluded his speech, was like the speech itself; it began with a very valiant assertion of the church's spiritual independence, but ended by the recognition of a principle loose and large enough to smother that independence altogether. "That the general assembly, while it holds sacred the spiritual powers confided to the church by the Lord Jesus Christ, its great Head, and considers it to be its indispensable duty to maintain and preserve inviolate those powers,—is nevertheless persuaded that it is incumbent on all classes of men, and particularly the members and office-bearers of a church which is sanctioned, established, and endowed by the state, to yield obedience to existing laws, declared by the supreme legal tribunals of the country to relate to, and to regulate civil and temporal rights, privileges, and possessions to whomsoever appertaining." That is to say, it is the duty of the church to take the civil court's word for it, that the law which she herself had framed about a matter spiritual, is in reality a law about a matter civil; that she must therefore at once renounce it as illegal, and proceed to regulate the

Dr. Cook's amendment.

The church must take the civil court's word for it that she is wrong.

1838. matters spiritual to which she designed her law to apply by the judgment of the court of session. After a lengthened and animated debate, Mr. Buchanan's motion was adopted upon a division by a majority of 41,—the numbers being 183 to 142.

Mr. Buchanan's motion carried by 183 to 142.

Dr. Cook had added to his amendment a clause recommending that the court of session's decision in the Auchterarder case, should be carried by appeal to the house of lords. The time, however, for considering and disposing of that question had not yet arrived; and accordingly, the successful motion had very properly taken no notice of it whatever. It was not, then, in any tangible or relevant form before the house. It came on, however, in due order, the following day, by a reference from the synod of Perth and Stirling. That synod having been applied to, as already mentioned, by the presbytery of Auchterarder for advice, as to the course which ought to be taken in regard to Mr. Young's memorial and notarial protest, instead of giving any judgment of its own, had very properly handed the whole case forward to the general assembly. As the judgment of the court of session in the Auchterarder case formed part of the record thus laid before the assembly, the proper opportunity was thus presented for deciding whether to appeal it or not. On that particular point, there was neither difficulty nor difference of opinion. The same reasons which made it right and necessary for the church to follow the case into the court of session, made it equally right and necessary to have that court's judgment reviewed in the court of last resort—the house of lords. There was another question, however, not so easy of adjustment,—the question, namely—What was to be done with Mr. Young? Was he to be permitted with impunity to threaten his ecclesiastical superiors with actions of damages, because they had refused to violate the laws of the church? In

The proposal to appeal the Auchterarder case to the House of Lords agreed to.

What was to be done with Mr. Young?

CHAP. VIII. making himself a party to the summons in the Auchterarder case at all, he might fairly be held to have exposed himself to the censures of the church. But the assembly, in 1836, when his conduct in that matter was first brought under notice, had virtually pledged itself not to proceed against him,—at least till the civil action had run its course. To have deprived him of his license then, and thus to have stripped him of the ecclesiastical status which gave him his title to appear in the case, might have seemed like an attempt to get rid of the action by a side wind. But that pledge or understanding could not be held to have covered this new and altogether gratuitous attack upon the authority of the church courts. The notarial protest and the threat of an action of damages, were not at all necessary for the maintenance of his civil rights. These were as safe without the protest as with it. And the act, therefore, had on the face of it nothing but the aspect of a wanton outrage upon that ecclesiastical government which he had sworn to obey. Mr. Whigham, the junior counsel for the pursuers in the Auchterarder case, was a member of this assembly: and while Mr. Young's conduct, in regard to the protest, was under discussion, he rose and stated that Mr. Young, in that matter, had acted under the direction of his legal advisers. The house declined, however, to allow any one to come between them and their own licentiate. And while they determined to appeal the Auchterarder decision, and for the present to institute no proceedings against Mr. Young in regard to that action—they further resolved, in reference to the notarial protest, that, before going further, Mr. Young be "cited to appear at the bar of the assembly." On the day appointed, Monday the 28th May, he appeared accordingly,—accompanied by his senior counsel the Dean of Faculty. The scene which followed was not creditable to the judgment, good taste, or candour, of that learned person. 1838.

The pledge given in 1836, not to institute proceedings against him, did not extend to this new outrage.

Mr. Young appears under citation at the bar of the Assembly, attended by the Dean of Faculty.

1838. His first movement was to plead ignorance of the purpose for which his client had been summoned to the bar, and on this ground to intimate, on the part of Mr. Young, that he had nothing to say. The assembly having, however, decided that the interrogation should proceed, it was moved and carried, at the expense of another division, that the question he put, "whether Mr. Young is prepared to say that he served the protest on the presbytery of Auchterarder under the direction of his legal advisers, that it was necessary or useful towards the case in dependence at his instance against the said presbytery." Forgetting what was due both to the house and to himself, the Dean of Faculty had recourse to the expedient of attempting to ride off from this question upon a palpable perversion of its meaning. Taking advantage of the expression, "whether Mr. Young is *prepared*,"—the Dean, speaking for his client, said,—no, he is not prepared to say yea or nay. What the house wanted was, to get formally and judicially at the knowledge of the fact, whether or not Mr. Young, in serving his notarial protest against the presbytery, had acted upon his own responsibility, or upon that of his counsel. If he "was prepared to say"—that is, if he was *in circumstances* to say,—if the facts *warranted him* to say, that the proceeding complained of, was substantially the deed of his legal advisers,—the assembly had signified again and again, in the course of the discussion, that for the present they would be satisfied to let Mr. Young alone. The Dean of Faculty knew, of course, the real import of the question,—and that his mode of meeting it was only one of those dexterous quibbles to which a pettifogging attorney might stoop, but which was as unsuitable in the supreme court of a Christian church as it was unworthy of the official head of the Scottish bar. The feeling which this manœuvre produced, the shock which it gave to every man's sense of

The Dean pleads ignorance of the cause of his being summoned.

The way in which he evades the question put by the house.

CHAP. VIII. propriety, was too unequivocally displayed to leave any room for doubting that the Dean had overshot the mark. There is a natural sympathy with the accused, which inclines men to allow considerable license to the side of the defence. But the limit had been overstepped, and the Dean felt it. In the very act, however, of escaping from the awkward position in which he had placed both himself and his client, he stumbled into an additional breach of both personal and professional decorum, by signifying, that the question which he had evaded as coming from the house, he would answer, if addressed to him by any member of standing and consideration! Dr. Cook very considerately came, in these circumstances, to the rescue of his friend, and the question was at length answered in the affirmative. Both orally, and in writing, the Dean admitted that he had advised Mr. Young to do what he had done, as *essential* to the protection of his interests in the pending lawsuit; and so this somewhat exciting passage, in the history of the assembly of 1838, came to a close. It served sufficiently to show, that in so far as those who were managing the Auchterarder case were concerned, it was a "war to the knife," which had been declared against the independent jurisdiction of the church. In this respect, the scene, however unpleasant, was not unprofitable. Forewarned is forearmed. The enemy had betrayed his plan of attack, and the church, in consequence, prepared for a firmer stand. With her eyes open to all the hazards of the conflict now begun, she had, in this important assembly, distinctly drawn the line around her own spiritual territory, and taken her ground, resolved, by God's help, to abide the issue. And in now looking back over all the perils and perplexities of her subsequent struggle, it cannot but be a pleasing reflection to those who led the movements of the assembly of 1838, that the principles then laid down, and the resolutions then taken, were fol-

1838.

The house offended by this treatment.

Dr. Cook rescues the Dean from his difficulty.

The Church had now taken her stand.

1838. lowed out with equal consistency and constancy to the end. CHAP. VIII.

Before leaving this assembly, it may be proper to advert to a particular amendment which, in the course of its sittings, was effected upon the regulations of the act on calls of 1834. As these originally stood, it had been, not very wisely, provided, that when, by the *jus devolutum*, the right of presentation to a vacant parish fell into the hands of the presbytery, their presentee should not be subject to the veto of the congregation. It was out of deference to an objection urged with great vehemence by the opponents of the act that this provision had been adopted. Parishes, they said, would be kept interminably vacant by this right of veto. The people would be so enamoured of the powers which it placed in their hands, that they would employ it in mere wantonness against every man that might be offered to them, or at least until they had compelled the patron to nominate the man of their own choice. The supposition was a mere gratuitous libel on the good sense and fair dealing of congregations, and ought never to have been listened to. With a view, however, to conciliate their opponents, the provision above specified was introduced. Here, it was said, is an effectual check upon the evil you dread. This will make sure against interminable vacancies; —and it will effect this object by *hindering the right of presentation from ever getting into the hands of presbyteries at all.* Both patrons and people will have an interest in coming to a good understanding, and in securing, in harmony with the rights of both, an amicable and an early settlement.

An amendment made on the regulations of the Veto act. The act made applicable to presentations by presbyteries.

The provision now withdrawn was intended to conciliate the opponents of the act.

It was well and honestly intended, but it was wrong notwithstanding, both in principle and in policy—wrong in principle, because it could not be reconciled with a full and fair application of the fundamental law of non-intrusion;

It was wrong both in policy and principle, and, therefore, was wisely removed.

CHAP. VIII. and wrong in policy, because it was fitted to expose the church to the injurious and mischievous imputation of seeking selfishly to aggrandize her own power. Although perfectly well aware of the real origin and history of this ill-contrived provision, the enemies of the veto-law were neither just nor generous enough to abstain from using the advantage which it gave them, in their zealous efforts to bring odium both upon the veto act and on those who framed it. The lawyers especially made their own of it at the bar of the court of session,—and the assembly of 1838 most wisely silenced the hostile battery which had been planted on it, by abolishing altogether the ill-judged provision. 1838.

The conflict thickens.

Indications had now begun to multiply of a deepening and widening conflict. Even before the court of session's judgment in the Auchterarder case had been yet pronounced, the spirit which gave it birth, and those views of the civil courts' pre-eminence which were developed in its progress, were already at work in other quarters, preparing materials for new disorders and still more harassing divisions. When the very foundations of authority come to be called in question, it is the sure token that a formidable struggle is at hand. The idea having once gained currency and countenance that ecclesiastical decisions were no longer to be held as final and conclusive, even upon such questions as the admission of ministers to their spiritual office and cure, it needed no unusual sagacity to foresee the consequences that must needs arise. Licentiates of a secular spirit—men who were seeking the priest's office for a piece of bread—were too likely to take advantage of the facility thus afforded them of gaining a position which otherwise they could never hope to reach. As there were, moreover, already in the ministry not a few to whom the evangelical and reforming character of that career on which the church

The pernicious consequences likely to result from unsettling ecclesiastical authority.

1839. had now embarked was altogether distasteful,—to whom the stricter discipline, the more living and active piety, the increased seriousness and spirituality of this new æra, were a source of continual uneasiness and alarm,—it was a thing to be counted on, that in the progress of such a controversy as had now arisen, a collision with those internally discordant elements should, sooner or later, take place. Men whose whole habits, as well as theology, belonged to the dark and dead school of the preceding century, were too ill at ease under the ascendency of principles so diverse from their own, not to take advantage of the first favourable opportunity to betray their discontent. The ground of these observations will begin ere long to appear.

Licentiates and ministers of a secular spirit encouraged to rebel against an evangelical and reforming Church.

At the assembly of 1838, two cases were brought up for review which were destined to occupy a prominent place in the struggles of the church, and to illustrate with peculiar force and clearness the great cardinal principles which were now at stake. These were the cases of Lethendy, in the presbytery of Dunkeld, and of Marnoch, in the presbytery of Strathbogie. Instead of taking them up, however, at this early stage of their progress, it will be more convenient to defer the account of them till it can be given in a more complete and continuous form. It will serve to keep the narrative more unencumbered and intelligible to go on at present, tracing out to its issue the fundamental case of Auchterarder, and describing the consequent proceedings of the general assembly.

Cases of Lethendy and Marnoch: the consideration of them postponed.

The appeal was brought on in the house of lords, by a special order of the house, on the 18th of March, 1839. Counsel being called, there appeared for the church, Sir Frederick Pollock, Mr. Pemberton, and Mr. Bell; for Lord Kinnoull and Mr. Young, the attorney-general Sir John (now lord) Campbell, Mr. Knight Bruce, and Mr. Whigham. The pleadings, which occupied five days, having been

The Auchterarder case in the House of Lords.

CHAP. VIII. closed, judgment was delayed till the 2d of May. On that 1839.
day Lords Brougham and Cottenham delivered their judicial opinions. That of Lord Brougham was given in the shape of an extempore address, which, partly, no doubt, from this cause, and partly from the discursive character of that eminent and learned person's intellect, appears, from the report of it which has been preserved, to have been of a somewhat rambling kind. Lord Cottenham delivered his sentiments in writing, and with all the wonted calmness and gravity of an English judge. The first thing in Lord Brougham's address that must strike the reader, is the facility with which he gets at his conclusion. Alluding to the "great divisions" which appeared on this case in the court below, "it does so happen," observes his lordship, "that I have been, with the utmost diligence, seeking for difficulties and found them not,—that I have been, with all the power which I could bring to bear upon the investigation, wholly unable, and am to this hour unable, to discover wherein the very great difficulty consists." He signified, moreover, that Lord Cottenham was in this respect, entirely at one with him. "We entertain," said he, "as little hesitation in our judgment, the one as the other, being both of us unable to account for the question of law now at issue having been made the subject of such a long and pertinacious discussion."* That men of such capacity and legal knowledge as Lords Glenlee, Jeffrey, Moncrieff, &c., should have had absolutely nothing, in the law of the case, to afford any ground, or colour even, for the strong and decided opinions they had been led to form upon the subject, appears to be a somewhat startling assumption. The surprise, however, which it produces, vanishes at once on examining the view of the case on which Lords Brougham and Cottenham pro-

Character of Lord Brougham's judicial speech.

Lord Brougham can find no difficulties in the case.

Neither he nor Lord Cottenham can understand what it was that perplexed the Court of Session.

* Robertson's *Report*, pp. 2, 3.

1839. ceeded. Grant their premises and there could be no difficulty in coming to their conclusion. [The theory on which their judgment turned involved these two positions,—*First*, The church is, by statute, the judge of qualification in the case of every presentee to a parish, but qualification is a technical term, including under it nothing but doctrine, literature, and life; and excepting therefore for heresy, ignorance or immorality, the church cannot legally reject a patron's presentee. And *second*, the presbytery is in the same position as a bishop in the church of England, and the civil court has the same jurisdiction in the case of the one as in the case of the other.] The former of these two positions is fatal, of course, to the legality, not merely of the act of assembly 1834, but of the principle involved in the motion made by Dr. Cook both in 1833 and 1834—that it was competent to the people, at the moderation of the call, to give in "objections of *whatever nature* against the presentee, or against his settlement,"—while the latter of the positions in question, carries the civil court triumphantly over all the defences of the jurisdiction of the church of Scotland. Speaking to the point of *qualification*, Lord Brougham observes, "I am somewhat surprised to find, in the very able and learned arguments from the bench below, an attempt made to show that qualification is of such extensive meaning, that within its scope may be brought the whole of the matter at present in dispute, namely—the acceptableness and reception of the party presented by the congregation, as finding favour in their sight. * * * A man, say they, may be of such rude and stern manners, he may be so disagreeable in his habits of life, or he may be so much above his flock in his manners, and so entirely disqualified for associating with them, that they will receive no edification from his ministrations. My lords, if it amount to anything affecting his morals, his life, and conversation,

The two positions which their lordships lay down, and which sufficiently account for their having no difficulties.

Qualification is a purely technical term, of very restricted meaning.

CHAP. VIII. that comes no doubt within the meaning of qualified. * * * 1839.
The word qualified," continued his lordship, is not "used in its general sense,—as you talk of a man's qualities, of his capacity, of his abilities, of his merits,—which are all general phrases, and none of them technically defined. The word '*qualified*' is as much a known word of the law, and has as much a technical sense imposed upon it by the statutes, by the law authorities, by the opinions of commentators, by the dicta of judges, as the word qualification has when used to express the right to kill game, or when used to express a right to vote in the election of a member of parliament. * * * It means a qualification in literature, life, and morals—to be judged of by the presbytery."*

Literature, life, and morals, are all that qualification includes.

On this important point Lord Cottenham is not less clear. When "the act of 1567, c. 7, ordained," says his lordship, "that the examination and admission of ministers should be in the power of the kirk then publicly professed within the realm, the presentation of lay patronage always reserved to the just and ancient patrons; and directed that the patron should present one *qualified* person within six months, otherwise that the kirk should have power to dispose the same to one qualified person for the time,—it is clear that the presentation so secured to the lay patron was to be subject *only* to the trial and examination of the church as to the qualification of the presentee,—that is, as to his *literature, life, and manners:* and that the appeal given by that act to the patron against the refusal of the superintendent to receive and admit the presentee, applied only to what had been before the subject of trial and examination, that is—his qualification as to literature, life, and manners."†

Lord Cottenham takes the same view of qualification.

* Robertson's *Report*, pp. 14, 15, 17. † Ibid., p. 46.

1839. The power of "examination and admission" of ministers, ratified by this statute, is declared to belong to the church then "publicly professed within the realm." Beyond all question it was a part of the public profession of that church, at the time when this statute was adopted, that no pastor be intruded on any congregation contrary to their will. The state could not expect, when it recognized the right of examination and admission as being exclusively within the power of the church, that the church was to trample upon its own avowed principles relating to that subject. There is nothing whatever about life, literature, and manners, in the statute. The law makes no such limitation of the church's power. It finds a church publicly professed within the realm. It takes it as it is,—and says nothing more than this—"the examination and admission of ministers belong to you." Lord Cottenham never looks at this argument. But setting out with an assumption, that "qualified," has the restricted and technical signification stated above, he carries it along with him to the end. It follows from this view, as matter of course, that the call has no legal foundation whatever. Not contented with denying to the call any legal competency or force, Lord Brougham, the *quondam* champion of popular rights, treats this popular privilege of Scottish congregations with contempt and scorn. "I will take," says his lordship, "an analogous instance. Mr. Attorney-general very properly alluded to the coronation. It is a decent and convenient solemnity, to present the sovereign to the people, and the people are supposed to take part in the choice,—a part, however, so immaterial, that if they were all with one voice to reject, the coronation would be just as good, would go on exactly in the same way, and the rejection or recalcitration of the assembled people, would have no more weight than the recalcitration of the champion's horse in Westminster hall

CHAP. VIII.

The answer to this assumption.

No such definition of qualification in the statutes.

The call annihilated by this definition, and turned by Lord Brougham into ridicule

CHAP. VIII. during the festival attending the great solemnity. It is an obsolete right which has not, within the time of known history, ever been exercised by any people." And was this "an analogous instance!" Had the call "not within the time of known history, ever been exercised by any" parish in Scotland! Was the *hereditary* succession to the crown "analogous" to a presentee's title to ordination and a cure of souls? Would a dissent *from the nation* against the accession of a particular individual to the crown, equal in point of extent and earnestness to the dissent *from the parish* against the settlement of Mr. Young, be of no more effect than the kicking of the champion's horse when he is backed out of Westminster hall! His lordship, in his judicial oration, in evident allusion to Lord Jeffrey, thought fit to say, that he knew "his subtlety to be unbounded," and "the fertility of his imagination in dealing with questions, to have no limits." The world, it is believed, has already formed a pretty confident opinion, as to whether of these two distinguished personages it is, who, in his judicial proceedings, has dealt less in "subtlety, ingenuity, and fancy," and more in logic and law. But if in his "analogous instance" of the coronation, Lord Brougham's legal accuracy and precision of thought were considerably at fault, his imagination had full scope: and mounting as it did upon the "recalcitrating horse" of the champion, it furnished him with the opportunity of having a fling at those popular rights, which his boasted ancestor Principal Robertson had been at so much pains to tread in the dust. Lords Brougham and Cottenham, proceeding according to that view of the law, which they had thus laid down, regarding the restricted import of the term, "qualified minister," and as to the consequent legal nullity of the call—it is easy enough to see how they should have encountered, in the consideration of the point of law, none of those difficulties

1839.

Lord Brougham's remarks on Lord. Jeffrey.

Easy to understand how their lordships should have found no difficulty in declaring the rejection of Mr. Young illegal.

1839. which embarrassed so many of the judges of the court of session. They were clear, accordingly, that the rejection of Mr. Young was illegal. CHAP. VIII.

As to the other question of the civil courts' competency to pronounce upon the illegality of the proceedings of the church courts, and to assume the right of prescribing to them their duty in the settlement of ministers, Lord Brougham seemed to think any argument upon the subject altogether unnecessary. His theory carries him to his conclusion at once; he takes for granted that when any proceeding of the church court, however strictly ecclesiastical in its own nature, or to whatever extent matters spiritual may be involved in it, *affects* a civil right,—that proceeding, in its whole extent, falls under the cognizance and control of the courts of law. "The church courts," he says, "are excluded, they are barred and shut out from any cognizance of civil patrimonial rights, and not only of civil patrimonial rights directly, but of *those things which indirectly affect civil patrimonial rights!*"* Dealing with this question, of jurisdiction, his lordship proceeds in this confident strain: "It only now remains that I should say something respecting the question of jurisdiction, but I have no doubt whatever upon that. It is asked, 'How can the court of session interfere in a matter of ecclesiastical cognizance?' Prove to me, your minor, that this is a matter of ecclesiastical cognizance, by which I mean of *exclusive* ecclesiastical cognizance. Prove to me that this is a question of qualification, like the question of *sufficiens* or *minus sufficiens in literatura*, and then I say that the court of session will be excluded: just as the court of queen's bench was in Specot's case upon a *quare impedit*, but which court did not deem itself to be excluded (and the Common bench agreed with them) where

The question of jurisdiction: Lord Brougham thinks their right to dictate to the Church courts is self-evident.

Puts the jurisdiction of the Church of Scotland on the same footing with that of the Church of England.

* Robertson's *Report*, p. 32.

CHAP. VIII. the return to the *quare impedit* by the bishop was *non* 1839.
idoneus. They would not have been excluded, even if the bishop had said *schismaticus inveteratus,* much less if he had merely said *nolo inducere,* as the presbytery has here done."

It has been always understood that this right of the civil court to compel a bishop to induct applies only to the case of a clerk, that is, to a person already in holy orders,—and that even under the royal supremacy in matters spiritual, which is the law of England, the bishop cannot be compelled, by any civil court in the realm, to grant ordination to a layman, or even to one possessing the inferior orders of a deacon. And yet Lord Brougham has no hesitation in laying down the position that in Scotland, where the crown, and consequently its courts, are by law declared to have no jurisdiction in matters spiritual, a presbytery may be compelled to perform an act of which ordination is a necessary and essential part! His lordship does not think it needful to bestow any reasoning upon the point; he employs neither argument nor evidence to support his opinion, it grows out of his theory, it belongs to the very essence of his conception of the relations of church and state. "It is said," his lordship observes, "you have no means of carrying into effect the decree of the court of session, albeit supported by the authority of the house of lords, which is a decision of parliament by its judicial character upon the subject. In other words, although you say the presbytery have acted wrong, although you say that their reason for rejecting is of no avail whatever, although you say the law is contrary to what you have supposed it to be, and although you say, deciding upon the petitory part as well as the declaratory part of the summons (which however you are not called upon to do), let the presbytery induct immediately, for it has no grounds for refusing,—

Makes the case worse for the Church of Scotland than even for the Church of England, in regard to which, civil supremacy in matters spiritual is the law of the land.

1839. still it is affirmed that the presbytery may persist in refusing, and must prevail.

"My lords, it is indecent to suppose any such case. You might as well suppose that doctors' commons would refuse to attend to a prohibition from the court of queen's bench, —you might as well suppose that the court of session, when you remit a cause with orders to alter the judgment, would refuse to alter it. Conflict of laws and of courts is by no means unknown here. We have unfortunately, upon the question of marriage, had a conflict dividing the courts of the two countries for upwards of twenty-five years, in which the court of session have held one law, and in which your lordships, and all our English judges, have held another law. The court of session in Scotland has held, and still holds, two persons to be married, whom your lordships hold not to be married. But has the court of session ever yet, when a case which had been adjudicated by them according to their view of the law,—has the court of session ever then continued the conflict, which would then have become not a conflict of law, but a conflict of persons—a conflict of courts—in which the weaker undoubtedly would have gone to the wall? The court of session never thought for one moment of refusing to obey your orders upon this matter, whereupon they entertained an opinion conflicting with your own. *For this reason alone*, and it is enough, I have no doubt whatever that the presbytery, when your judgment is given, declaring their law to be wrong—declaring the patron's right to have been valid,—will even upon the declaratory part of the judgment, do that which is right."*

Lord Brougham holds the Church courts as much bound to obey the decree of the civil courts, as the Court of Session is bound to obey the decree of the House of Lords.

According to this statement, the courts of the church of Scotland stand to the courts of civil law, in the same relative position that a subordinate civil court stands to a supreme

* Robertson's *Report*, pp. 38, 39.

CHAP. VIII. civil court. The idea of a distinct province as belonging to 1839.

According to these views, the Church has no intrinsic and exclusive jurisdiction whatever.

the church, and of a jurisdiction intrinsic and exclusive within that province, is entirely set aside. With Lord Brougham the question of church jurisdiction is not one of less or more. He denies the existence of an independent jurisdiction as belonging to the church at all. He treats it as an "indecency," even to suppose, that the courts of the church of Scotland would ever dream of refusing to obey *any* sentence which the supreme civil court might think fit to pronounce; as indecent as to suppose that the court of session would refuse to bow to the judgment of the house of lords. Lord Brougham, at the same time that he is so unhesitating in his view of the civil court's supereminent jurisdiction, is obliged to admit it to be true, of all preceding decisions upon cases carried before the courts of law, from the judicatories of the church, that they were "*not* fruitful of instruction for the present question;" that "no one of them is to be found which disposes of it and governs it;" and that in "no one to which they relate, has the present question ever been raised."* Lord Cottenham recites all the leading cases which had occurred in the course of last century, one after another, but is not able to adduce a single case in which the civil court had ever meddled with the ordination or induction of a minister, or had ever gone one step farther than to determine the exclusively civil questions,—Whose was the right of patronage? or whose was the right to the stipend? And yet Lord Cottenham comes to the same conclusion with Lord Brougham, stated, no doubt, in more guarded and respectful language, but still in language which bears the same meaning,—that the civil court's jurisdiction, even in a matter which involves the spiritual act of ordination, is supreme

Obliged to confess that there are no precedents.

Lord Cottenham is equally at a loss for a precedent, but nevertheless asserts the civil court's right of interference.

* Robertson's *Report*, p. 19.

1839. and must be obeyed. "If your lordships," said the chancellor, "shall concur in the opinions I have expressed, and by your decision, inform the clergy of Scotland what the law really is, I cannot doubt but they will, by their conduct and example, inculcate the sacred principle of *obedience to the law*, of respect for the rights and interests of others, and of the sacrifice of private feelings to the performance of public duty."* CHAP. VIII.

Guided by the views and principles now explained, their lordships, without any hesitation, affirmed the judgment of the court of session. This was a grave event for the church. In itself, it is true, the decision went, and could go, no further than the decision of the court below. It settled the point that the rejection of a patron's presentee, solely on the ground of the dissent of the congregation, was illegal; and hence, that though the patron should refuse to present another, the presbytery could not claim, *jure devoluto*, the right to present in the patron's room, nor could any individual whom they might, in these circumstances, and upon their own authority, induct into the charge of the vacant parish, be entitled to the civil fruits of the benefice. It did not settle whether any, or what, compulsitor could be brought by the civil court to bear on the presbytery, for the purpose of controlling their ecclesiastical proceedings. Taking the decision, however, in connection with the grounds on which it was avowedly based, it could not fail to increase that anxiety and alarm to which the judicial opinions uttered the year before in the court of session, had already given rise. No one could read the speeches of Lord Brougham and the chancellor, without being fully satisfied that it was not by any means the mere veto-law that was now at stake, but the non-intrusion principle itself, in every

The decision of the Court of Session affirmed.

What this decision settled, and what it did not settle.

The judicial opinions of the Chancellor and Lord Brougham went much further than their sentence.

* Robertson's *Report*, p. 64.

CHAP. VIII. shape and form of it,—and in addition to this, the church's whole right of self-government in matters spiritual. If those views of the law, regarding the rights of patrons, on which, in the court of last resort, the judgment in the Auchterarder case was expressly founded, were to be maintained,—the congregation, as such, must be pronounced to have no legal standing whatever in the settlement of their minister. Their voice, whether for or against the settlement, must henceforth become a thing of nought. Their solemn and deliberate judgment, as to the presentee's unfitness to edify their souls, must be treated as a mere impertinence. Bestrode by the all-powerful patron, and with his spur in their helpless side, they must submit to be forced out of their own parish church, in order that his useless presentee may be forced in. Their opposition, even if made with all the circumstantiality of formal objections to his fitness for the charge, could not avail, unless, indeed, it should take the form of a libel against the soundness of his faith or morals, and be followed out in due course of law; and even then, unless the presbytery, which might chance itself to be not very rigid in such matters, should come to be of their mind, all their efforts to exclude the obnoxious presentee must fall to the ground. Nay more, upon the principle so confidently laid down in the house of peers, of the civil court having a right to review and reverse any sentence of a church court which *affected* civil rights, the concurrence of the presbytery with the people in their libel, would still leave the whole question of the settlement where it was. The case might be carried from the ecclesiastical to the civil court, and the sentence be there set aside, on the alleged ground that the charge libelled was not within the statute, or any other of the thousand pleas which this right of review would open to legal ingenuity,—and thus, a presentee, libelled by the people, and convicted by

1839.

According to their opinions, the people cannot obstruct the settlement of a presentee, excepting by means of a libel.

Even a libel, though brought by the people and supported by the Church courts, might not avail.

1839. the presbytery, might after all be carried over the necks of both, not merely into a benefice, but into the office of the ministry, and into a cure of souls!—that is, if any church court, even under the terrors of fine and imprisonment, the civil court's only weapons for enforcing its decree, could be found willing to degrade itself and to prostitute its sacred functions, by submitting to this erastian control.

It was manifestly, therefore, no ordinary crisis which this final decision in the first Auchterarder case had brought on, in the affairs of the church. The interval was but a brief one between the 2d of May, when that decision was pronounced, and the 16th of the same month, when the general assembly convened. Brief as it was, however, it found at its close the assembly perfectly prepared to meet the emergency. Not only had there been much earnest consultation among those distinguished men upon whom, since 1834, the responsible charge of guiding the counsels of the church had chiefly devolved,—but among the most godly members of the church there had been much earnest prayer. Special meetings had almost everywhere been held, for the purpose of commending the assembly to the God of all grace and wisdom; and of supplicating, on behalf of its members, the spirit of love, and of power, and of a sound mind,—the spirit of faith and fidelity, and of the fear of the Lord.

This decision brought on a crisis in the affairs of the church.

Prayerful preparation for the meeting of Assembly 1839.

This memorable assembly was opened, as usual, with divine worship, and a sermon preached by the moderator of the year before. The sermon had a text singularly appropriate to the assembly in which the question was to be determined,—are the rights of the Christian people, in the calling and settlement of their ministers, to be utterly abandoned by the church? The text was that exhortation of the apostle John contained in the 1st and 2d verses of the 4th chapter of his first epistle: "Beloved, believe not every spirit, but *try the spirits whether they be of God,*

The opening of the Assembly, and the Moderator's sermon.

CHAP. VIII. because many false prophets are gone out into the world. 1839.

The text: meant by the preacher to apply to popery rather than to patronage, but equally good against both.

Hereby know ye the Spirit of God: every spirit that confesseth that Jesus Christ is come in the flesh, is of God." In his discourse from these words, the preacher, the Rev. Dr. William Muir, of Edinburgh, was at some pains to prove that the right and duty of trying the spirits, belongs not to the clergy or church rulers alone, but to the private members of the church. There can be no doubt, indeed, that in asserting this important truth, it was against popery and not against patronage he meant it to bear. It is quite as good, however, for the one purpose as for the other—and though it clashed rather inconveniently, as will shortly appear, with Dr. Muir's own speech in the subsequent debate, it furnished a very solid argument in support of the motion that was adopted by the house.

On the first day of the assembly, distinct intimation of the coming contest was given. As if impatient to announce the prompt and cordial readiness of himself, and of those with whom he acted, to conduct the affairs of the church on the footing of entire submissiveness to the decrees of the civil courts, Dr. Cook took the unusual course of calling the attention of the assembly, within an hour after it convened, to the result of the Auchterarder appeal, and of intimating his purpose to submit to the house a motion upon the subject; suggesting, at the same time, a particular day of the following week for discussing it. The trumpet of the moderate leader, blown in such haste from one end of the lists, was answered on the instant from the other. Dr. Chalmers, who was known to have girded his giant strength for this momentous conflict, rose as Dr. Cook sat down, and calmly observed that, "he would feel it to be his duty to submit some distinct proposition to the house, and that he would table his motion at the same time with that of the Rev. Doctor." The gage of battle being thus taken up, a

Dr. Cook's haste to proclaim his purpose of submitting to the civil courts.

Dr. Chalmers announces that he, too, will have a motion to propose.

1839. third champion advanced into the lists, eager, apparently, to step in between the combatants, and to persuade them to shake hands. The representative of no intelligible principle upon the question himself, Dr. Muir seemed to think it possible that even antagonist principles might be reconciled; that non-intrusion and absolute patronage, spiritual independence and erastianism, might, somehow or other, be made good friends. "It was plain," said the ex-moderator, "that propositions which might be conflicting were impending over the assembly. Yet surely there might be elicited, by a private friendly discussion of the propositions contemplated, some ground on which a harmonious resolution could be obtained." This notion of arranging, in some quiet half-hour's private talk between the leaders, a difference which affected the whole theory of the church's constitution, and which had been publicly debated for years, was, of course, by common consent rejected. Its author clung to it notwithstanding, expressing his hope that "the learned and reverend doctors would consider themselves free to amalgamate their motions into one, if they saw that this would be for the good of the church:" a very amiable imagination, doubtless, but one which betrayed a singular misapprehension both of the parties and the principles that were about to come into collision. It was but recently that Dr. Muir had begun to interest himself in the general business of the church. He had been accustomed, indeed, during by far the greater part of his previous ministry, to absent himself entirely from church courts, and to addict himself exclusively to his pulpit and parochial duties. Pursuing this course, he had justly earned for himself the reputation of a faithful and useful minister, but on the other hand he had, by this seclusion, totally unfitted himself for being an efficient counsellor upon great public questions like those which were now agitating the church. His

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Dr. Muir suggests that the matter may be settled in a "private friendly discussion"

Dr. Muir had but recently begun to interest himself in the business of Church courts.

CHAP. VIII. evangelical sympathies were understood to have been of late 1839.
drawing him more and more towards the men of the party of Dr. Chalmers,—while at the same time, in matters of church policy, his leaning had always been towards the side of moderatism. On the present occasion he had taken his place, with mathematical precision, in the very centre of the cross bench, and from this position it was that he attempted to step in after the manner above described, between the moderate and evangelical leaders, and to bring them to one! The circumstances now mentioned seemed, at least at the time, both to explain and excuse a proceeding which otherwise, as coming from a person of Dr. Muir's standing and intelligence, it might have been somewhat difficult to understand.

His seat in the centre of the cross-bench.

To indicate still more strongly the importance which was so justly attached to the approaching debate, Drs. Cook and Chalmers laid their antagonist motions on the table of the assembly two days before it came on. The fullest opportunity was thus given to every member of the house to consider their real import, and to determine to which of them he should lend his support. The motion of Dr. Cook set out with a long preamble, in which were minutely detailed the origin and progress of the Auchterarder case, —first in the courts ecclesiastical, and afterwards in the courts of law. Thereafter it proceeded thus:—"Under these circumstances, it is moved, that the act on calls, commonly denominated the veto act, having been thus declared by the supreme civil tribunals of the country to infringe on civil and patrimonial rights, with which the church has often and expressly required that its judicatories should not intermeddle, as being matters incompetent to them, and not within their jurisdiction, it be an instruction by the general assembly to all presbyteries that they proceed henceforth in the settlement of parishes according to the practice which prevailed previously to the passing of that

The antagonist motions of Cook and Chalmers laid on the table two days before the debate.

The motion of Dr. Cook.

1839. act; keeping specially in view the undoubted privilege of parishioners to state, at the moderation of the call, any relevant objections to the induction of presentees; upon which presbyteries, after hearing parties, shall decide,—it being in the power of these parties to appeal, if they see cause, to the superior church courts." It was on Wednesday, the 22d of May, the discussion took place. Before entering on it, a venerable member of the house, the Rev. Mr. Burns, of Kilsyth, was called on by the moderator to invoke in their behalf the presence and blessing of Almighty God. This was about twelve o'clock noon, and the debate was concluded about two hours after midnight. Dr. Cook's argument in support of his motion amounted substantially to this:—It has now been conclusively determined by the courts of law that the veto act affects civil rights; the standards and laws of the church forbid her courts to handle things which pertain to the civil jurisdiction; the assembly of 1834, in passing the veto act, is proved to have violated that prohibition, because the civil tribunals have declared this to be the fact; the veto act is therefore null and void; the church is bound to treat it as such, and to go back at once, and as matter of course, to the state of things which preceded its enactment. The fallacy which runs through this whole argument lies here. It assumes that the church is stepping out of its own ecclesiastical province, and meddling with what belongs to the civil jurisdiction, whenever it touches anything which draws, however indirectly, some civil consequence in its train. As has been already sufficiently shown, this is in other words to deny that there is such a thing as a province ecclesiastical,—a province proper and peculiar to the church. Dr. Cook forgot altogether to advert to the fact that the same church standards which prohibit the ecclesiastical courts from meddling with matters civil, deny not less peremptorily to the civil courts

The Rev. Mr. Burns, of Kilsyth, called on to engage in prayer

Summary of Dr. Cook's argument.

The fallacy of his argument.

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all right and competency to meddle with matters ecclesiastical. If the courts ecclesiastical forget this distinction, the civil court will, of course, protect itself by disallowing to the illegal acts of the church any civil result, and by treating them as in this respect destitute of all force and effect. But, on the other hand, it belongs to the very essence of that distinction between the civil and ecclesiastical, which the standards of the church lay down, that there is a corresponding right, inherent in the courts of the church, —a right to guard what is ecclesiastical from the encroachments of the courts of law. As the civil courts are not bound to hold a church act to be *ecclesiastical*, merely because the church has chosen to call it so,—no more are the courts ecclesiastical bound to hold it to be a matter *civil*, merely because the courts of law have been pleased so to decide. Each class of courts must judge for itself, and act accordingly. It is curious to observe how strangely Dr. Cook misrepresents this very simple and harmless proposition. "The very idea of it," he says, "is a contradiction in itself. We not only have not, but we could not have, such a power consistently with the purposes and intentions of the civil government. There cannot be two independent legislatures in the same country. It is impossible that society can exist if one legislature be not supreme. If we admit an *imperium in imperio*, we tear up the foundations not only of government, but we tear up the foundations on which the whole system of social union rests." This is surely an example of very great confusion of thought. Dr. Cook identifies the courts of law with the legislature; and because the church refuses to submit to the sentence of the one, he takes for granted that it is setting itself up in opposition to the other. But how does the case actually stand? The argument of his opponents was this,—the legislature of the country has delegated one kind of jurisdiction to the courts

The standards of the Church prohibit the State from meddling with matters spiritual, as peremptorily as they prohibit the Church courts from meddling with matters civil.

Dr. Cook's mode of stating the views of the supporters of spiritual independence.

1839. of civil law, and it has ratified another kind of jurisdiction as belonging to the courts of the church. The legislature has not made the one class of courts subject to the other, but has placed them on the footing of courts of co-ordinate jurisdiction, and has declared the decisions of each to be final in regard to all matters which fall within its own province. On the supposition that this was a correct statement of the fact, it is abundantly obvious that, in refusing to acknowledge the right of the civil court to control its proceedings in matters ecclesiastical, the church, instead of rebelling against the legislature, was only giving effect to the legislature's design. If, when the time for making the appeal arrived, this view of the relative position of the civil and ecclesiastical courts should be disallowed by the legislature of the country, Dr. Cook's opponents never hesitated to avow, what their after conduct nobly exemplified, that then their resistance would be at an end. All along, they distinctly declared that it did, and must, belong to the legislature to determine on what conditions it will confer upon a church the immunities of a civil establishment; and that if once its decision should be given forth to the effect of sanctioning that doctrine of the civil courts' supremacy, now heard of for the first time since the revolution settlement of 1690, there could be but one or other of two alternatives open to loyal subjects and men of honour,—either to submit to that civil supremacy in matters spiritual, or to leave the establishment altogether.

The State recognizes the civil and ecclesiastical courts as co-ordinate.

Should the State determine otherwise, and insist on a civil supremacy in matters spiritual, there would then be nothing left but to submit, or to renounce the Establishment.

Such being the real state of the question, it was unworthy of Dr. Cook to attempt to load his opponents with the odium of seeking to set up the old popish principle which subordinated the civil to the ecclesiastical power. It was impossible that Dr. Cook could be ignorant of the radical difference between a claim, like that of popery, to subject the state to the church,—and a claim, like that of the

Dr. Cook tries to confound the claim of the Church with the claim of Popery.

CHAP. VIII. church of Scotland, to be free from civil coercion in administering its own spiritual affairs. The former was the claim of tyranny, the latter is the claim of liberty of conscience. The one was the ally of despotism, the other is the only foundation for true and lasting freedom. Not only, however, did Dr. Cook raise this groundless and senseless cry,—a cry which was afterwards greedily caught up, and confidently repeated, by many who knew nothing about it,—but he allowed himself to indulge in vilifying the church to which he belonged, by attempting to show that this usurping spirit was no new feature of its history, but one which had appeared more than once before. As his one solitary proof of this offensive charge, he read an extract from the *Book of the Universal Kirk*, on the strength of which, he accused the assembly of 1591 of maintaining, "that ecclesiastics should not be brought under the cognizance of civil tribunals," and of dragging before them "a judge of the court of session" for an act done by him, "in the exercise of his duty, sitting upon the bench administering justice." This, observed the *Presbyterian Review* in its commentary on Dr. Cook's speech, "is a pure fabrication, a gratuitous calumny, utterly unsupported by the record on which Dr. Cook professes to found it, and expressly contradicted by the known facts of the case, as established by the testimony of an opponent. Spottiswoode, notwithstanding all his strong prejudices, brings no charge against the church for their conduct in this matter: and from his narrative of the facts of the case (pp. 384, 385), it is quite evident that Dr. Cook's accusation is wholly unfounded. Dr. Cook, however, is not the fabricator of this calumny. He has borrowed it from two most disreputable episcopalian productions; viz., that infamous libel, Bishop Maxwell's *Burden of Issachar*, and that most virulent and mendacious book, Heylin's *History of the Presby-*

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Vilifies his own Church.

The *Presbyterian Review's* answer to his statement on this point.

Dr. Cook's story was a calumny, borrowed from Maxwell and Heylin.

1839. *terians* (p. 295). It is also deserving of remark, that Principal Baillie, in his reply to Maxwell, describes at length the actual facts of this case, and proves that this slander of Maxwell's (the very same as Dr. Cook's), is utterly groundless, and that the assembly on that occasion did not attempt to interfere in any civil matter, and did not try to step beyond their province of judging in ecclesiastical affairs. Dr. Cook of course knows these facts: but we take the liberty of recommending to his attention the following sentence with which Baillie introduces his reply to this calumny as brought forward by Maxwell:"—

"At this place, p. 46, you bring us another story, whereupon you make tragic outcries of the assembly's insolent usurpations. It seems you thought that this your book should never have come from Oxford into the hands of any Scotchman who knew the custom of the judicatories of Scotland. *I do marvel much at your impudence,* that you should speak of the assembly's encroaching upon the lords of session with any civil cause which the law commits to any temporal judicatory." The calumny exposed long ago by Baillie.

"If Baillie," continues the *Review*, "marvelled much at the impudence of a bishop who had been excommunicated by the church, and declared an incendiary by the state, in publishing at Oxford so groundless a calumny against the church of Scotland, how would he have described the conduct of the man who, himself a minister of that church, and one who had written its history, should have dared to repeat the very same calumny in the face of the general assembly?"* Baillie wondered at the impudence which could publish such a story at Oxford; what would he have said of its being published in the General Assembly.

It was entirely in keeping with those views which Dr. Cook had given forth, as to its being the church's duty in every case to accept the sentence of the courts of law, as

* *Presbyterian Review*, vol. xii., pp. 175, 176.

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decisive of what does, and what does not belong to the ecclesiastical jurisdiction, to say as he did. "It appears to me, therefore, that the veto-act is not an act of the church: it is altogether a nullity: the church was acting under error,—she did that which she supposed she was competent to do: but it is now found that she was not competent, and the act falls to be considered as no act of the church at all. This being the case, there is no occasion, in my estimation, to send down this act to be repealed, to the different presbyteries. We had not the power to pass it: we cannot have the power to repeal it: it is an absurdity, and therefore, in my opinion, it falls to the ground altogether." Such was the state of utter impotence and slavish subjection to the courts of law, to which Dr. Cook sought to reduce, by his motion, a church whose glory it had ever been to hold, as the cardinal principle of its constitution, that Christ was its only Head and King. Those who have studied that church's laws and history, will judge whether its true genius be found in the crouching and craven spirit which breathed in the speech and motion of Dr. Cook, or in the unflinching resolution and noble sentiments which pervaded the speech and motion of Dr. Chalmers.

Dr. Cook holds the Veto-law to be no law of the Church at all, because disallowed by the civil courts.

The spirit of the Church of Scotland breathed not in Cook, but in Chalmers.

In the outset of his elaborate and magnificent address, Dr. Chalmers took occasion to state, that in 1833 and 1834 he had been himself in favour of going to parliament—"not for the purpose of obtaining the sanction of the state in favour of our own great constitutional principle of non-intrusion—for that I hold to be beyond their province—neither for the purpose of superadding the civil to the ecclesiastical sanction, in order to confer a rightful authority either on the veto-law or any other device by which to carry the principle of non-intrusion into effect—for that I hold to be equally beyond their province—but for the purpose of making sure that we did not forfeit that which it is altogether within the

Chalmers explains that in 1834 he wished to have gone to Parliament.

1839. power and province of a government either to give or to withhold, the inestimable benefits of a national establishment." In alluding to this fact, it was not so much the speaker's object to vindicate his own consistency in proposing, as he was about to propose, that they should do now what it had been his wish to do five years before ; as rather, to meet a particular and very mischievous objection which, in high and influential quarters, was rife at that moment against the conduct of the church. The church was accused of the grossest recklessness in passing the veto-law. It was assumed that those who guided its counsels had neither inquired nor cared about the risk of bringing on a collision with the civil rights of patrons. Adverting to those who entertained such views, "it may, perhaps," said Dr. Chalmers, "blunt the edge of their dislike to us, when made to understand, that at the very commencement of this ecclesiastical law there were the most anxious solicitude and inquiry in regard to the bearing which the civil law had upon it ; and if these were confined to the chamber of consultation and did not come forth into visible display, it was because met and satisfied by the high authority of his majesty's law officers in Scotland. If no reference was made to the government during the enactment of this law, it was because their own legal functionaries were upon its side, and any charge which the champions of loyalty may found upon this, lies at the door, not of the ecclesiastics, but of the civilians of the general assembly."

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They did not go to Parliament in 1834, because the law officers of the State assured them it was unnecessary.

The independence resolution of the preceding year had already alienated many conservative statesmen and members of the Scottish aristocracy, from a cause which Dr. Chalmers had deeply at heart,—the cause of church extension. A church not tied hand and foot by civil statutes, not subject in everything to the control of the courts of law, they looked upon as dangerous to the commonwealth. Their own notions

The independence resolution of 1838 had alarmed some of the conservative statesmen, and of the Scottish aristocracy.

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The right of self-government claimed by the Church was looked upon by them as another form of radicalism.

of a church establishment being all formed upon the model of the church of England, with the parliament for its legislature and the sovereign for its head; they were equally surprised and alarmed to hear of such pretensions to a self-governing power as were maintained by the church of Scotland. It seemed to them to be only another manifestation of the dreaded spirit of radicalism and revolution. Nor was this impression at all weakened but rather strengthened by the fact, that the shield of that jurisdiction, in all matters and causes ecclesiastical, which the church claimed as her own, she had been throwing as a protection over the spiritual rights and privileges of the people. For the sake of that great cause to which his whole soul was devoted, as well as for their own sake, he would fain have disabused these frowning grandees of their utterly mistaken prejudice. "Let me," he exclaimed, "give an assurance, which I do with the profoundest respect to the nobles and high gentlemen of Scotland, that never, never was there a greater misconception than to look on the doings of our church, as they would on the fermentations of some coming anarchy which is to go forth and desolate the land. Truly they confound the things which differ; they apprehend the same danger from giving way to the popular mind in this ecclesiastical question, as from giving way to the popular mind in a question of civil or political warfare; and in perfect keeping with this, they look on the vindicators, or if you will on the champions of this cause, just as they would on the agitators or demagogues of the commonwealth in seasons of plebeian delusion, or of fierce and frenzied partizanship; never was there an imagination wider of the truth. There is no affinity whatever between the demand, the honest demand, of the common people for a pure gospel, and those demands which are lifted up in the loud accents of turbulence and menace for the extension of their rights as citizens. There is a total distinction

Dr. Chalmers' appeal to this class,— and his attempt to remove their needless alarm.

1839. and dissimilarity between those two things. Even an anti-patronage clergyman—let alone a vetoist—is just as unlike a chartist or a radical as William Wilberforce is unlike to William Cobbett."

An anti-patronage clergyman as unlike a Chartist as William Wilberforce is unlike William Cobbett.

Leaving these more general considerations by which Dr. Chalmers sought to conciliate, in the high places of the land, a favourable reception for that appeal which he designed to recommend that the assembly should make to the government and parliament, with a view to obtain a legislative sanction for the veto-law,—he came next to the question,—What is to be done meanwhile, and until that sanction is given? On this fundamental point his views were clear and strong. When the hazard of an adverse decision in the Auchterarder case had first been spoken of, his own impression, and he had spoken of it often and openly to others, was, that in such an event he would be prepared to go back from the legislative to the judicial powers of the church, and to effect by the veto of the presbytery what could not be effected, so as to carry the benefits of the establishment along with it, by the veto of the congregation. Not, indeed, that he would ever for a moment have consented to do this on the footing contemplated in the motion of Dr. Cook. He would have done it "in the event only of the veto-law being repealed, which law we never can be freed from till it is repealed ecclesiastically. But supposing it thus repealed; and supposing also that we had tried to obtain the civil sanction for the veto-law, or something else in its place, and had failed;" it was then, and in that case alone he "should have had no objection to fall back on the judicial and administrative power of presbyteries."

Recommends that a legislative sanction should be sought for the Veto-law.

The circumstances in which alone Dr. Chalmers would have been prepared to fall back on the judicial power of the Church.

Till the date of the Auchterarder decision in the house of lords, it had never occurred to Dr. Chalmers, and it could not have occurred to those who supported the motion of Dr. Cook, in the assemblies of 1833 and 1834, that presbyteries

CHAP. VIII. were not entitled to look at all the circumstances which seemed to affect the ministerial usefulness of a presentee, and having respect to all these circumstances to determine absolutely whether they would settle him or no. Why then was Dr. Chalmers no longer disposed to betake himself to such a course as the one he had described? "That *was* my ground," he said, "speaking to that very question,—and I have not shifted it. I have not changed my ground,—the ground has been cut away from me, and there is not one inch left for my feet to stand upon. Here we are, in virtue of this decision, and of the principles on which it rests, flung abroad upon a viewless gulph, with no support and no resting-place save a despotic patronage on the one side, or a lapse into voluntaryism on the other. There is positively nothing left for us between these two extremes in the present state of the law, as expounded by the two chancellors in the house of lords. And the precise object of my motion is to save us from both of these extremes,—from a system of patronage on the one hand, that will secularize our church, and justly alienate the affections of all our people,—from that system of voluntaryism on the other, into which, if we once plunge, there will plunge along with us the great mass and majority of our population into the depths of an irreligion and a vice, from which, with but the means and forces of a voluntary church, we can never recall them."

1839.

The judicial power of the Church as effectually taken away as its legislative power by the late decision, and especially as interpreted by the opinions of the judges.

Nothing now but absolute patronage or the surrender of the Establishment.

Dr. Chalmers had not then contemplated those methods which, when driven, four years afterwards, into separation from the state, his own great mind devised, of calling forth the resources of a voluntary church. But to whatever extent he may himself, by the divine blessing on his own wisdom and energy, have thus become instrumental in diminishing the very evils which he dreaded and foretold, enough, alas! will remain behind amply to justify the solemn warning which he gave. And the time will come when men will

1839. look back with equal indignation and astonishment, at the choice which statesmen made,—when, in the nineteenth century, the æra of progress and political reform, they preferred the alternative of maintaining unaltered a barbarous and oppressive law of the middle ages, to the concession of a principle so just and reasonable as this, that a congregation should be allowed at least a negative voice in the choice of their minister!

The time will come when the folly of having disregarded Dr. C.'s solemn warning will be seen and understood.

By large extracts from the printed judicial speeches of Lords Cottenham and Brougham, Dr. Chalmers substantiated to the full that account of their decision which he had submitted to the house. He showed that, not the right of dissent alone, but the call, in every form of it, had been swept away. And furthermore, that while the congregation had been stripped bare of every privilege they had hitherto been understood to enjoy, the presbytery had fared no better. Excepting within the limited range of literature, life, and manners, they were held to have nothing whatever to say to the patron's presentee. He might be utterly destitute of preaching gifts; there might be no evidence of the grace of God in his heart; he might be a man who was evidently destined to lay the parish desolate; the presbytery might have the most solemn conviction that they were sinning against God in committing to him the holy ministry and the care of immortal souls,—but not being able to prove him a heretic, a profligate, or an ignoramus, they must trample on the laws of their church, on the principles of God's word, on the dictates of their own conscience, on everything that should be most sacred to ministers of Christ,—and, simply at the bidding of a court of law, and under the coercion of brute force, they must ordain and admit him to the charge!

Shows that the people and the presbytery have been stripped equally of their privileges by the late decision.

By way of illustrating the monstrous nature of that jurisdiction which the courts of law were now claiming over presbyteries, in regard to a process which involved the

CHAP. VIII. spiritual act of ordination, Dr. Chalmers referred to the church of England. He quoted the case of a Mr. Abbott, M.A., of Queen's College, Cambridge, who, on being refused ordination by the Bishop of Norwich, and also, on appeal, by the Archbishop of Canterbury, applied to the crown, as head of the church "to remove this hinderance to his obtaining episcopal ordination." To this application, made in 1830, Lord Melbourne, as the king's first minister, replied, that he "cannot advise the king to give any command for controlling the judgment of a bishop on the subject of ordination to holy orders." And yet, what the sovereign, though having undoubted jurisdiction in matters spiritual, according to the law and constitution of the church of England, would not venture to do there, the courts of law were now prepared to do here,—notwithstanding that these courts of law had not one particle of jurisdiction in any matter spiritual whatever! True, indeed, in England, ordination is usually separated altogether from induction. They ordain first,—and when the patron issues his presentation, it is in favour of one already in holy orders,—nothing but induction, therefore, remains, and induction the law and practice in England treat as a matter of civil right, to grant which the bishop may be compelled by legal force. Lord Brougham, misled by his English precedents, took it as a matter of course, that the only thing which created the difficulty as to the civil courts' interference in Scotland, arose out of the fact that here ordination and induction were usually combined. His lordship knew, however, that there were cases in which that combination did not exist. A patron may and does often present to a vacant parish a minister already ordained and in the enjoyment of a benefice. In this instance, said Lord Brougham, "the only question that can arise is with respect to inducting him into the parish of A, whereas formerly he was settled in the parish of B;" and

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Quotes the case of Mr. Abbott of the Church of England.

In his case Lord Melbourne refuses to advise the King to interfere with a Bishop's right to give or withhold ordination.

One of Lord Brougham's blunders.

Takes the case of an ordained minister presented to another charge.

1839. having provided himself with this case, "sifted entirely of the difficulty with which it is sought to be mixed up as to the first benefice,—because the first benefice is accompanied with ordination and the second benefice is accompanied with no ordination, at all,"—and having further laid down the principle that "whatever law applies to the case of the first benefice, in respect of the present controversy, must be equally applicable to the second benefice,"—he thinks he has here discovered an *experimentum crucis* that will carry him, without difficulty, to his conclusion. Assuming it to be an imagination too absurd for any one to indulge in, that a presbytery could refuse induction in the case of a minister already ordained, he reasons upon this assumption as a sufficient ground for holding that they cannot refuse it in the case of a minister not ordained.

Takes for granted that induction cannot be refused in such a case, and concludes that therefore it cannot be refused in any case.

"Now," said Dr. Chalmers, after quoting the passage in which this notable argument of the ex-chancellor is contained, "I would have the assembly specially to notice the total misunderstanding under which his lordship here labours in regard both to the law and the practice of our church judicatories. * * * He reasons from the imagination that when induction is separate from ordination, as in the transportation of ministers, the idea of a presbytery having the power to refuse such induction were an absurdity too violent to be entertained for a moment. And from this he reasons to the equal, if not greater, absurdity of a presbytery having power to refuse induction, when a minister for the first time has been presented to a parish. Now, it so happens that on every such question of a second induction, and wherewith the ordination of the presentee is not at all concerned, he having been already ordained on admission to his first parish, on every such question of induction, and of induction alone, the church courts do put forth the very power, and actually describe the very steps, which, in the eye of his lordship, it

Dr. Chalmers shows his lordship to be in error both as to the law and the practice of the Church.

The thing which Lord Brougham takes for granted is not true.

CHAP. VIII. were quite monstrous to conceive as possible. They call on 1839.
the first congregation to appear at their bar and state their reasons, if they have any, why their minister should not be dissevered from them: and they call also on the opposite side to state their counter reasons, why the removal should take effect. The presbytery sits in judgment on these reasons: and if their finding be the superior fitness of the presentee for his present over his proposed charge, they can put their authoritative interdict on the removal—an interdict the power of which has never been disputed that we know of; but, as a matter of course, is acquiesced in by all parties, though to the great disappointment, it may be, both of the patron and presentee. So late as last year this very process was gone through, to the very great disappointment of the patron. His lordship has just carried us to the very place where the strength of our cause appears in characters of most irrefragable demonstration. Go to England, where ordination is given separately from induction, and we there see that no civil power, not even the king, who is the head of their church, would offer to control a bishop in the matter of ordination. Come back to Scotland, and look to the only cases where induction takes place separately from ordination, as in the transportation of ministers, and we there see the absolute, uncontrolled power of the presbytery, either to reject the presentation or to give effect to it. In England, ordination is a matter not to be touched by the civil power, but is left altogether with the power ecclesiastical. In Scotland, induction, when it stands aloof from ordination, is a matter never touched by the civil power, but is left altogether to the power ecclesiastical. But by this sweeping sentence on the case of Auchterarder, the power ecclesiastical is doubly overborne. Not only are we lorded over as to the matter of induction,—respecting which our church has all along, and up to this moment, stood superior to the

The presbytery has always done, and without challenge, the very thing Lord Brougham considers to be impossible.

1839. church of England,—but we are further lorded over as to the matter of ordination, in which, if our prostrate and fallen church do acquiesce, we shall be degraded immeasurably beneath the sister establishment. And all this, too, *as the conclusion of an argument not only different from the truth, but directly and diametrically opposite to the truth.*"

Lord Brougham's whole argument found ed on a gross mistake.

Reckless, however, as Lord Brougham's assumptions and arguments might thus be shown to be, they had been made the basis of a decision which, in respect of all civil effects, must now be recognised as the law of the land; and with that decision before them, and still more with that decision read in the light of those principles on which it was professedly founded, the assembly must proceed to determine the question,—what was now to be done. Dr. Cook had agreed to append to his motion, the recognition of special fitness for the particular charge, as a legitimate ground on which the presbytery might place its judgment in rejecting or accepting the presentee; but special fitness was not within the definition given by the two chancellors of the term "qualification,"—it did not fall under any one of these three categories, *literature*, *life*, or *manners*. In a word, there was no middle course left to the church. Absolute patronage, enforced at the expense of riding rough-shod over the entire field of the church's spiritual jurisdiction, must be acquiesced in at once, or a stand must now be made, once for all, against these intolerable aggressions. The only position that could be taken up, consistent with loyalty to the state on the one hand, and with true allegiance to the church's divine and glorious Head on the other, was that which, in the following motion, Dr. Chalmers proposed:—

No room left for even Dr. Cook's "special fitness," according to the doctrine of the House of Lords.

"The general assembly having heard the report of the procurator on the Auchterarder case, and considered the judgment of the house of lords, affirming the decision of the court of session, and being satisfied that, by the said judg-

The motion of Dr. Chalmers.

CHAP. VIII. ment, all questions of civil right, so far as the presbytery of 1839.
Auchterarder is concerned, are substantially decided, do now, in conformity with the uniform practice of this church, and with the resolution of last general assembly, ever to give and inculcate implicit obedience to the decisions of civil courts, in regard to the civil rights and emoluments secured by law to the church, instruct the said presbytery to offer no farther resistance to the claims of Mr. Young, or of the patron, to the emoluments of the benefice of Auchterarder, and to refrain from claiming the *jus devolutum*, or any other civil right or privilege connected with the said benefice.

The Church bows to the decision, in so far as matters of civil right are concerned.

"And whereas the principle of non-intrusion is one coeval with the reformed kirk of Scotland, and forms an integral part of its constitution, embodied in its standards and declared in various acts of assembly, the general assembly resolve that this principle cannot be abandoned, and that no presentee shall be forced upon any parish contrary to the will of the congregation.

Resolves to abide by the principle of non-intrusion.

"And whereas, by the decision above referred to, it appears that when this principle is carried into effect, in any parish, the legal provision for the sustentation of the ministry in that parish may be thereby suspended, the general assembly being deeply impressed with the unhappy consequences which must arise from any collision between the civil and ecclesiastical authorities, and holding it to be their duty to use every means in their power, not involving any dereliction of the principles and fundamental laws of their (church) constitution to prevent such unfortunate results, do therefore appoint a committee for the purpose of considering in what way the privileges of the national establishment and the harmony between church and state, may remain unimpaired, with instructions to confer with the government of the country if they see cause."

Appoints a committee to seek an adjustment of the difference between the civil and ecclesiastical law.

All that the state had given to the church in the parish

1839. of Auchterarder was the benefice, and the power, in certain circumstances, to exercise the patron's right of patronage. The late decision had ruled the point, that the act of assembly 1834 could not be enforced without the loss of these temporalities. The presbytery of Auchterarder was accordingly instructed, in the motion of Dr. Chalmers, to hold them as, for the present, forfeited by the church. It was lawful for the church to surrender the state's gifts, but not lawful to surrender any of her own fundamental laws, so long as she believed them to be in accordance with the will of Christ, and necessary for the spiritual good of His people. The act of 1834 possessed these characteristics. The principle on which it rested formed part of her public profession as a church before her connection with the state began. She had carried it along with her into the state alliance, it had been always embodied in her standards, often proclaimed in her laws, frequently asserted in her administration, and never abandoned during the two centuries and a half that had elapsed since she received her civil establishment. She still held it to be both scriptural and expedient,—and a principle therefore which she could not renounce without doing violence to her own constitution and sinning against God. At the same time this state of things,—this contrariety of the civil law regarding the benefices, to the ecclesiastical law regarding the spiritual cures of the church, must tend, if continued, to break up the union of church and state altogether, and hence the recommendation with which the motion concluded, that a committee should be appointed to consider the best mode of adjusting this serious disagreement, with power to confer with the government of the country upon the subject. As the first effort of that committee would naturally be to obtain from parliament a law in harmony with the act of assembly, Dr. Chalmers dedicated a considerable portion of his speech to the vindication

It was lawful for the Church to surrender the State's gifts, but not to give up Christ's laws.

The existing contrariety between the civil law as to the benefices, and the church law as to the cure of souls, must be done away if Church and State are to continue united.

CHAP. VIII. of the principle on which that act proceeds. The extract 1839.
is long in which this vindication is contained, but it is far too full of both wisdom and eloquence to make it burdensome to the reader. It meets, and with a force of argument which no opponent has ever ventured fairly to face, the only plausible-looking objection with which the non-intrusion principle has ever been assailed.

The conclusion of Dr. Chalmers' speech.

"Let me now conclude," said the distinguished speaker, "with a few brief remarks on the principle asserted in the preamble of the motion, that most express, and one of the most ancient of our statutory and constitutional principles; and, to this hour, the one in greatest demand, and the dearest of all others to the people of Scotland,—we mean the principle of non-intrusion. The object of the veto-law was to supply a definite test for the clear guidance and determination of church courts, and by which they might come at once to a deliverance on the question whether or not this principle is violated. But if we are not to have the direction of this law, then, though in the absence of its test, we are not to lose our hold of the principle, but judge as we can by any other tests that remain to us, whether by the ancient measure of a call,—happily preserved to us as a relic of better days, spared and transmitted, in the midst of their other cruel sacrifices, by the reckless innovators of last century,—or failing the call, for had this of itself been an unfailing index, the veto-law would never have been heard of: but in defect of the call as not being a perfect criterion, then must presbyteries look to the matter with their own eyes, and judge in their own consciences—and with a solemn feeling of their responsibility to the God of righteousness and truth—whether or not they hold the appointment of this man to be an intrusion or an offence to the Christian feelings of the people; and whether or not, with this moral barrier in the way of his usefulness, it is

The principle of non-intrusion not to be abandoned.

1839. for the Christian good of their families that he should be inducted to the charge of their souls. I know what may be said against this; and it equally applies to the veto and the call, or to any other method by which you proceed on the mere fact of the popular antipathy, and that without requiring any statement, or at least any vindication from them, as to the reasons of it. I am fully prepared for all the wanton ridicule which has been cast on a popular antipathy, without reasons, or such reasons as can be stated before a bench of judges for them to judge upon. The Dean of Faculty, in his pleading before the lords of session, makes repeated and contemptuous allusions to this mystic and incomprehensible something—too shadowy for expression, too ethereal to be bodied forth in language, and on which we would reject the presentee,—grounding our rejection on a veto, itself without grounds; or at least such grounds as are capable of being set forth and made intelligible to the minds of other men. Now, if there be one thing of which we are more confident than another, it is that here we have all philosophy upon our side, and all that is sound in the experience of human nature. Not in Christianity alone, but in a thousand other subjects of human thought, there may be antipathies and approvals resting on a most solid and legitimate foundation,—not properly, therefore, without reasons, but reasons deeply felt, yet incapable of being adequately communicated. And if there be one topic more than another on which this phenomenon of the human spirit should be most frequently realized, it is the topic of Christianity; a religion, the manifestation of whose truth is unto the conscience: and the response or assenting testimony to which, as an object of instant discernment, might issue from the deep recesses of their moral nature, on the part of men with whom it is a fell reality—able, therefore, to articulate their belief, yet not able to articulate the reasons of it.

Contempt thrown by the Dean of Faculty on the dissent without reasons assigned.

Dr. Chalmers vindicates that dissent.

Argument in favour of it from the nature of Christianity

CHAP. VIII. There is much, and that the weightiest part by far, of the internal evidence for Christianity, that rests on the adaptations which obtain between its objective truths and the felt necessities or desires of our subjective nature—adaptations powerfully and intimately felt by many a possessor of that nature, who is yet unable to propound them in language, far less to state or vindicate them at the bar of judgment. And if ever the prerogatives of the human conscience were at one time more cruelly trampled on than at another, it has been during the last century, and at the bar of this house,—when the collective mind of a congregation, who both knew and loved the truth as it is in Jesus, has been contemptuously set at nought: and the best, the holiest feelings of our Scottish patriarchs, by lordly oppressors sitting in state and judgment, were barbarously scorned. In that age of violent settlements, these simple, these unlettered men of a rustic congregation could say no more—yet said most truly of the intended minister—than this, that he did not preach the gospel, and that in the doctrine he gave, there was no food for their souls. I cannot image a more painful spectacle, than such men as these, the worthies of the olden time, at once the pride and the preserving salt of our Scottish commonwealth, placed under the treatment and rough handling of an able, jeering, ungodly advocate,—while coarse and contemptuous clergymen, booted and spurred for riding committees,* were looking on and enjoying the scene: and a loud laugh from the seats of those assembled scorners, completed the triumph over the religious sensibilities of men who could but reclaim with their hearts and not with their voices. This was the policy of Dr. Robertson, recently 1839.

Condemns that contempt of the conscientious dissent of pious congregations which prevailed in the preceding century.

Sketch of a scene in the Assembly during the reign of moderatism.

* In those days the general assembly enforced the law of patronage both against the people and the refractory presbyteries by means of travelling, commonly called riding committees, whose office it was to ordain the intruded clergyman, which was not unfrequently done under the protection of a military force.

1839. lauded in high places,* a policy which has dissevered our population from our church, and shed most withering influence over the religion of the families of Scotland. Re-enact this policy if you will, and you place your kirk, as a national establishment, on the brink of its sure annihilation. Have a care, ye professing friends of order and loyalty,—have a care, lest by a departure from the line of resolute and unswerving principle, ye strip the church of all moral weight in the eyes of the community. Think of the deadly enemies by whom we are encompassed: and have a care, lest by one hair-breadth deviation from the path of integrity and honour, ye cause the hearts of these Philistines to rejoice.

Warns the Assembly against returning to the policy of the Intrusionists.

"This discernment of the gospel, this just perception of truth, on the part of a home-bred peasantry, though unable to assign the principles or reasons, is not more marvellous than is their just perception of beauty, though unable to assign the philosophy of taste. Hear the most philosophical of all our poets, Akenside, who in his *Pleasures of Imagination*, bids us

Illustration of his argument from Akenside.

> 'Ask the swain who journeys homeward from a summer day's
> Long labour, why—forgetful of his toils
> And due repose, he loiters to behold
> The sunshine gleaming, as through amber clouds,
> O'er all the western sky. Full soon, I ween,
> His rude expression and untutor'd air,
> Beyond the power of language, will unfold
> The form of beauty smiling at his heart.
> How lovely, how commanding,—heaven
> In every breast hath sown these early seeds
> Of love and admiration.'

"In the one case our peasant feels, and correctly feels, an admiration which, unskilled in metaphysics, he cannot

* By Lord Brougham, in giving judgment on the Auchterarder case. His lordship prided himself on his blood relationship to the leader of Scottish moderatism, and naturally admired the policy which his own decision sought to restore.

CHAP. VIII. vindicate: in the other he knows the truth, but, unskilled in logic, he can neither state nor defend the reasons of it. 1839.

"'It has been frequently remarked,' says Dugald Stewart, 'that the justest and most efficient understandings, are often possessed by men who are incapable of stating to others, or even to themselves, the grounds on which they proceed in forming their decisions.' 'An anecdote which I heard many years ago, of a late very eminent judge (Lord Mansfield) has often recurred to my memory, while reflecting on these apparent inconsistencies of intellectual character. A friend of his who possessed excellent natural talents, but who had been prevented by his professional duties as a naval officer from bestowing on them all the cultivation of which they were susceptible, having been recently appointed to the government of Jamaica, happened to express some doubts of his competency to preside in the court of chancery; Lord Mansfield assured him that he would find the difficulty not so great as he apprehended. 'Trust,' he said, 'to your own good sense in forming your opinions: but beware of attempting to state the grounds of your judgments. The judgment will probably be right, the argument will infallibly be wrong.' '—*Stewart's Elements*, vol. ii. 8vo. pp. 103–106.

Dugald Stewart's anecdote of Lord Mansfield applied in vindication of the Veto.

"I would take," continued Dr. Chalmers, after giving this most pertinent quotation from the celebrated metaphysician, "the verdict of a congregation, just as I take the verdict of a jury, without reasons. Their judgment is what I want,—not the grounds of their judgment. Give me the aggregate will; and tell me only that it is founded on the aggregate conscience of a people who love their Bibles, and to whom the preaching of the cross is precious: and to the expression of that will, to the voice of the collective mind of that people, not as sitting in judgment on the minor insignificancies of mode, and circumstance, and things of external observation, but as sitting in judgment on the

The congregation compared to a jury, which gives its verdict without assigning reasons.

1839. great subject-matter of the truth as it is in Jesus,—to such a voice, coming in the spirit and with the desires of moral earnestness from such a people, I for one would yield the profoundest reverence."

The motion of Dr. Chalmers having been seconded in a vigorous speech by Mr. Bruce, of Kennett, as that of Dr. Cook had, without any speech, been seconded by Mr Smythe, of Methven, Dr. Muir presented himself to the notice of the assembly. When these motions were tabled two days before, Dr. Muir had intimated that neither of them met his views, and hinted that he would probably propose something different from both. The addition Dr. Cook had since agreed to make to his motion, by introducing special fitness for the particular congregation, as one of the grounds on which the presbytery must rest its judgment in rejecting or admitting a presentee,—had, to some extent, conciliated Dr. Muir; though he was "still desirous of going further."* His own plan, which he proceeded forthwith to explain, would have involved a complete departure from the course which had been followed by the church in the settlement of ministers from time immemorial. The first step of that process had always been to send the presentee to preach to the congregation; for until he had done so, and obtained their call, it was the assumption of the church that they had no warrant to proceed further in the matter. Dr. Muir proposed, instead of this, "that immediately on a presentation being received and sustained, the presbytery enter on the trials of the presentee,—trials the object of which shall be to ascertain his still having those qualifications, theological, moral, and literary, which at the

Dr. Muir not satisfied with either of the two motions.

His own scheme.

Proposes to take the trials of the presentee *first*, and thereafter to appoint him to preach before the congregation.

* The addition made to his motion by Dr. Cook was this,—"That all ministers or entrants presented to kirks be tried before their admission, if they be qualified for the places to which they are presented, besides the ordinary trials of expectants before their entrance to the ministry."

CHAP. VIII. first sanctioned the granting to him a license to preach the gospel." Having passed safely through the first ordeal, they were to record the fact in their minutes,—and then to submit him in some way or other, which Dr. Muir did not attempt to explain, to a second ordeal, by which his suitableness for the particular congregation should be tested. 1839.

"The mind of the people" to be taken into account, but did not explain how, or to what effect.

Under this second ordeal, the "mind of the people" was to be one of the "circumstances and considerations for ascertaining his suitableness," which ought to become the subject "of investigation and judgment to presbyteries" in accepting or rejecting the presentee. It would not have been easy to contrive a scheme fitted to run more directly than this of Dr. Muir in the teeth of those views of the law which had been laid down in the house of lords in deciding the Auchterarder case. Let the presentee only have the presbytery's attestation that all was right with him in regard to "qualifications theological, moral, and literary," and anything beyond this would prove but a cobweb in the way of hindering his ordination and induction. The presbytery, by this process, would merely have furnished him with the staff to break their own heads, in the event of their presuming to throw their second ordeal across his path. The *first* had given him, by an express and recorded judgment of the presbytery, all which Lords Cottenham and Brougham held to be necessary for the completion of his title both to orders and admission. The attempt to interpose a *second* would be as great an illegality as the act of 1834,—and one still more offensive to the civil law, as having been framed at the very moment when the judgment of the civil courts forbidding it, had just been pronounced.

The whole scheme as much at variance with the Auchterarder decision as the Veto-law itself.

There were, however, many other objections to the scheme of Dr. Muir: and these were stated and urged with singular felicity and force, by one who was destined from that day forward to exert perhaps a greater influence than any other

1839 single individual in the church, upon the conduct and issues of this eventful controversy. The reputation of Mr. (now Dr.) Candlish as a preacher was already well known. His extraordinary talents in debate, and his rare capacity for business, not hitherto having found any adequate occasion to call them forth, were as yet undiscovered by the public, —probably undiscovered even by himself. They seemed, however, to have needed no process of training to bring them to maturity. The very first effort found him abreast of the most practised and powerful orators, and as much at home in the management of affairs as those who had made this the study of their life. There was a glorious battle to fight, and a great work to do, on the arena of the church of Scotland, —and in him, as well as in others evidently raised up for the emergency, the Lord had His fitting instruments prepared.

Dr. Muir answered by the Rev. R. S. Candlish.

His great talents in debate, and in the management of affairs till then unknown.

Dr. Muir had thrown his motion into the form of a series of resolutions. "First of all," said Mr. Candlish, after a brief exordium, "I find expressions introduced into these resolutions which, unless carefully explained and strictly guarded, would go far to lay the authority of the church prostrate at the feet of the civil power, not only in questions relating to the admission of ministers, but in other questions also, affecting the most sacred spiritual functions which the church can be called to exercise." In his second resolution Dr. Muir had laid it down, "that in passing this act (that of 1834) of her own will, and carrying it into effect, the church was influenced by the belief that this act, being not only in its nature, but also in its consequences, strictly and purely spiritual, there was no necessity to obtain previously the concurrence of the legislature to it." As Dr. Candlish justly remarked, this statement was really not true. In passing the act of 1834, the assembly knew well enough, and could not but know, that "in its *consequences*" it was not "strictly and purely spiritual." They knew that if the

Speech of Mr. Candlish.

Points out the errors, both in fact and principle, contained in Dr. Muir's second resolution.

CHAP. VIII. law took effect in the ordinary way, one of its consequences must be to exclude the presentee from the benefice. Why, indeed, did the church follow Mr. Young and Lord Kinnoull into the civil court at all, but just because "consequences" were connected with the act 1834 that were not spiritual but civil, and on which, accordingly, the civil court alone was competent to adjudicate? But, furthermore, this statement of the resolution, so incorrect in point of fact, was as unsound in point of principle. If it had any meaning at all it could be only this, that it was *ultra vires* of the church to pass any act, however purely and strictly spiritual in its own nature, if only it could be shown to carry, no matter how indirectly and remotely, some civil *consequences* in its train. It was to this Mr. Candlish alluded, as a principle that would place the church, even in her most spiritual functions, under the entire and absolute control of the courts of law. In a word, it was precisely Dr. Cook's erastian principle somewhat less broadly announced; and their essential identity was sufficiently brought out at the division, when at the final vote, Dr. Cook's motion had the support of Dr. Muir. 1839.

The point in Dr. Muir's resolutions which most required animadversion.

The point, however, in Dr. Muir's resolutions which most needed animadversion was of a different kind. There was a great deal in them about "the judicial character and privileges of the ecclesiastical courts," but nothing whatever about the privileges of congregations. The only kind of intrusion to which Dr. Muir seemed to be opposed was intrusion against, not the will of the people, but the will of the presbytery. "I have looked," said Mr. Candlish, "and I do not find, from the beginning to the end of his resolutions, one single word recognizing the privileges of the christian people. The reverend doctor has pleaded for the power of the church,—in its courts, composed of its rulers and office-bearers, but without securing and carrying out along with that power the rights of the christian people.

The resolutions pleaded for the prerogatives of the Church Courts, but studiously disregarded those of the people.

1839. And this, to my mind, is substantial popery. It is a position which must go far to establish a system of spiritual despotism. In truth, it is only when the rights of the people in the church of Christ are secured that the power of the ruling courts can be safely pleaded; and it is then also that that power can be pleaded to its highest point. * * * If the people are once effectually secured in their rights, I hold that their rulers in the church may exercise a far more energetic superintendence, and a more discretionary jurisdiction than now they do; and may interfere with far more authority, in regulating and moderating the proceedings which take place throughout the whole matter of the settlement of ministers. If we recognize their privileges, we may require and expect them to recognize our prerogatives. For it is undoubtedly the right and duty of the rulers of the church, to moderate and control, with a high scriptural authority, the movements of *all the other parties* who act together in this matter. But when we assert the power of the church in its ruling courts, while the rights of the christian people are sunk and merged, we are asserting a power altogether unchecked and arbitrary, to which surely the Lord never intended that those whom He has made free should be subjected."

CHAP. VIII.

Mr. Candlish shows that it is only when the people have their rights secured, that authority can safely be vested in the Church Courts.

After expressing his satisfaction, that the form which the question had now assumed was that of a life and death struggle for the principle of non-intrusion; this, said he, "is the plain and palpable alternative" we have to put before our people:—"Will you have us to submit without a struggle and without an effort, to a system of patronage the most arbitrary and unrestricted,—to a system of patronage which, but for the milder temper of the days in which we live, might bring back those melancholy times when not ministers in their robes, but bands of armed men, introduced the pastor to his people? Will you submit, or will you

The appeal to be made to the members of the Church in the present crisis.

CHAP. VIII. have us to submit to that iron yoke which your fathers were unable to bear,—or will you give us your sympathies and your prayers while we stand up for the rightful power of the church of Christ, and assert at once and together *our* prerogatives as the rulers and *your* liberties as the people; while we go respectfully, but manfully to the other party, in the contract by which we are established, to the state,—to the authorities of the nation,—testifying to them what is their duty, and soliciting them to the performance of it? I have no doubt whatever, that when the question is thus put, it will be fully, and cordially, and unanimously answered throughout all our parishes. But if the trumpet give an uncertain sound,—if we merely assert the rights of the rulers in the church, while we sacrifice or hold in abeyance the people's liberties, it will be no wonder if we have not,—we shall not deserve to have with us the heart or the prayers of one single man who is worthy of the name of Scotsman." 1839.

His confidence that the people will rally round the Church in such a cause.

As the debate proceeded, the chief speakers in support of Dr. Cook's motion were, Mr. Whigham, advocate, and the Rev. Dr. Bryce, formerly of Calcutta; in support of the motion of Dr. Chalmers, and in addition to Mr. Candlish, Mr. Earle Monteith, advocate, and the Rev. Dr. Burns of Paisley; and in support of the motion of Dr. Muir, Sir Charles Fergusson, Bart. of Kilkerran, and the Rev. Adam Tait of Kirkliston. Mr. Whigham argued, or rather asserted, that the motion of Dr. Chalmers, if carried, would amount to a violation of the law. Dr. Bryce maintained that the simple fact of having appealed the Auchterarder case bound the assembly, as matter of course, to give up the veto-law at once, since the decision had gone against it; and said that when he saw his opponents hesitating to do this, "he felt inclined to doubt whether he was speaking to honest men and clergymen." This indiscretion brought the speech of the reverend gentleman, then in its opening paragraph,

The speakers who took part in the debate.

Dr. Bryce impugns the honesty of his opponents and breaks down.

1839. to an untimely end. After assuring the house, amid the storm of disapprobation which immediately arose, that he would sit down if it refused to hear him, and attempting to struggle on for a little in the face of the unmistakeable response which this appeal called forth, he sunk down into his seat. "Moderator," said Dr. Burns, reverting to this tragi-comic scene, "amid the vituperators of the veto, there is at least one gentleman who will be its friend—I mean Dr. Bryce—for he began his speech by telling us that the moment the voice of the house was lifted against him, though without reason assigned, he would cease to speak. It is true, he has not kept the pledge, but the countenance of a minister of thirty years' standing is worth something." Mr. Monteith occupied himself almost exclusively with the injurious charge brought by Mr. Whigham against the motion of Dr. Chalmers, of violating the law. His speech was one of eminent ability. It scattered Mr. Whigham's charge to the winds. It demonstrated, with a weight of evidence and argument altogether irresistible, the utterly unconstitutional character of that supereminent jurisdiction which was now claimed for the courts of law; it proved the jurisdiction of the church to be co-ordinate with theirs; and that the violation of law was consequently and altogether on the side of those who would betray that independence in matters spiritual which the state had ratified as the prerogative of the church. Mr. Tait, like Dr. Muir, was all for the "authority of church rulers." Sir Charles Fergusson thought Dr. Muir's motion the most "judicious," and that "if the motion of Dr. Chalmers was carried, the connection between church and state must cease."

CHAP. VIII.

Dr. Burns claims Dr. Bryce as a vetoist.

Mr. Monteith's answer to Mr. Whigham.

Rev. A. Tait, and Sir Charles Fergusson support Dr. Muir's resolutions.

Other speakers were still desirous to address the assembly, but midnight was already past, men were exhausted, impatience for the decision had become strong and universal, and the debate was at length closed, when the light of the

CHAP. VIII. summer morning was already beginning to dawn. On the 1839.

The division. first vote there appeared—

For Dr. Chalmers' motion	197
For Dr. Muir's motion	161
Majority	36

On the second vote—

For Dr. Chalmers' motion	204
For Dr. Cook's motion	155
Majority for the motion of Dr. Chalmers	49

The motion of Dr. Chalmers carried by a majority of 49.

This decisive majority clearly showed that the independence resolution of the year before was no idle bravado, but the calm and well-considered declaration of principles by which the assembly was determined, at all hazards, to abide. What was then a proclaimed purpose was now an accomplished fact. In 1838, the church had distinctly announced what she could and would give up at the bidding of the courts of law; and what she could not and would not give up at their bidding. The motion of Dr. Chalmers, adopted by the assembly of 1839, did nothing more than carry into practical effect the doctrines thus laid down. Nor was this unflinching firmness untempered with becoming moderation. Not only was a strong desire expressed, but the utmost pains were taken that nothing should be done meanwhile of a nature to give needless offence either to the minority of the assembly or to the civil courts. An injunction was issued requiring the presbyteries of the church to report all cases of disputed settlements to the next general assembly. By thus sisting procedure in every instance where a fresh collision was likely to occur, matters might, without difficulty, have been kept at least *in statu quo;* and the committee appointed to negotiate for an alteration of the law of patronage would thus have been left free to prosecute their important commission undisturbed by those complica-

The motion of 1839 gives effect to the independence resolution of 1838.

Means taken by the Assembly to guard against fresh collisions.

1839. tions which every new conflict between the civil and ecclesiastical courts must inevitably produce. There can be no reasonable doubt, that had this arrangement been fairly dealt with by the minority in the church, the conflict might have had a totally different issue. Instead, however, of accepting this concession, and taking advantage of the opportunity which it offered of promoting an amicable settlement of the church's difficulties, it will be seen, as the history proceeds, how very different was the course they actually pursued—how wantonly they aggravated the difficulties which already existed, and how recklessly they dragged the church into others still more formidable which need never have arisen at all.

These efforts to preserve the peace of the Church, frustrated by the subsequent proceedings of the moderate party.

Those of the moderate party who were bent on committing themselves to the extreme measure of resisting the laws and authority of the church, received no little countenance and encouragement from an occurrence which took place in the assembly of 1839. In the committee mominated under the motion of Dr. Chalmers were included most of the leading members of the assembly, to whatever party belonging. When the names were read over, on the morning of the day after the debate, Dr. Cook intimated his intention not to serve upon the committee. Upon this, the Earl of Dalhousie rose and signified that he too must decline to act. This intimation was the more surprising, that some days before, Dr. Chalmers had shown his motion to that young and estimable nobleman, and had received his lordship's express consent to have his name placed on the committee and to take part in its business, in the event of the motion being adopted by the house. His excuse for now withdrawing that consent his lordship found, he said, in Dr. Chalmers' speech. That speech told the house what Dr. Chalmers understood by the expression, that "no pastor be intruded on any congregation contrary to their will." He

The Earl of Dalhousie's movement.

CHAP. VIII. understood it to mean—not contrary to the presbytery's will, but contrary to the congregation's will. All the world, however, knew this well enough before. His speech in 1833 was as explicit upon that point as his speech in 1839. 1839.

Reasons assigned by his lordship for withdrawing his promise to act as a member of the non-intrusion committee.

Lord Dalhousie would have gone, he said, to parliament to ask for a law to sanction the right of the presbytery to judge of special fitness,—in other words, to sanction such a power as was contemplated in the concluding clause of the motion of Dr. Cook: for his lordship admitted, that under the Auchterarder decision, even that miserably limited prerogative would be denied to the church; but this was all the length he was willing to go. And now, therefore, that he had learned from the speech of Dr. Chalmers that the committee nominated under his motion was intended to go considerably farther, his lordship "could not consent to join the committee when his doing so would commit him, not only to the principle (according to his own understanding of it), but to the principle acccording to the interpretation put on it in the speech delivered yesterday." Had Lord Dalhousie contented himself, after making this statement, with the withdrawal of his name from the committee, the incident would hardly have deserved any remark. Considering, indeed, how perfectly well known it was that Dr. Chalmers held those views of non-intrusion, of which Lord Dalhousie now complained, most men might have wondered that the difficulty which his lordship found so formidable had not sooner presented itself to his mind; but still the fact being so that his lordship had made, even at so late an hour, the discovery in question, no one had any right to find fault at his declining to assist in procuring the sanction of the legislature to a principle of which he disapproved.

Not contented with having his name erased from the list of the committee, his lordship must have it erased from the roll of the House.

But Lord Dalhousie did not content himself with having his name erased from the list of the committee. He must also have it erased from the roll of the house. Not only

1839. would he not sit in the committee, he would not sit an hour longer in the general assembly! And all this because a motion had been carried, whose object he had himself been willing, three days before, to concur in promoting. True, indeed, his lordship was pleased to state his reasons for this strong and necessarily, to the house, offensive step, somewhat differently. "I will not form," he said, "part of the governing body of an established church which, with no invasion by the state of any of her holy and inherent rights, in defence of no sacred principle, but for a matter of mere ecclesiastical polity, has set herself up in an attitude, —for so it is, gloss it as you will,—in an attitude of dogged defiance, of virtual disobedience to the declared law of the land." But what had the assembly done to justify this language? If the motion of Dr. Chalmers involved no "defiance" and no "rebellion" against the state when his lordship gave his consent to act under it, why should it be loaded with these odious accusations now? Not a letter of it had been changed. And even if the speech of Dr. Chalmers had been both rebellious and defiant,—instead of being as it was, full of deference and loyalty,—it was not the *speech* the assembly had adopted, or for which the assembly was responsible, but the *motion* alone. And granting that Lord Dalhousie may have been ignorant before of what he knew now, that the non-intrusion principle contended for by the motion was a much stronger kind of non-intrusion than his own,—there was, at least, no such difference between them as to make the asserting of the one a duty, and the asserting of the other a crime. Lord Dalhousie himself admitted that his non-intrusion was swept away by the Auchterarder decision as effectually as that of Dr. Chalmers; and that without an act of parliament his non-intrusion would be found as much in collision with the civil law as the non-intrusion of Dr. Chalmers: and yet by giving his consent

His lordship's view of the conduct of the Assembly.

His lordship admits, that *his* non-intrusion cannot stand with the Auchterarder decision, any more than that of Dr. Chalmers.

CHAP. VIII. to act under the motion of Dr. Chalmers he was, at the very least, declaring that, let the civil courts say what they might, his lordship's non-intrusion was a principle that "cannot be abandoned," and in the face of which no presentee would be settled by the church. His point of resistance was considerably in the rear of that occupied by Dr. Chalmers, but it was still outside and in advance of what Lords Brougham and Cottenham had declared to be the line of the civil law. If there was rebellion in refusing to surrender the one position, there was rebellion in refusing to surrender the other. And yet it was in these circumstances Lord Dalhousie ventured to charge the supreme ecclesiastical court—which he had entered for the first time in his life only a few days before, and of which he was probably the youngest member—with rebelling against the law of the land. His lordship gave himself no time to reconsider the sentiments he had uttered, for after telling the house, if not with all the dignity at least with all the confidence of a prophet, that the church had "already rung out her knell as the established church of Scotland," he immediately withdrew; and by thus setting to the other office-bearers of the church a conspicuous and influential example of contempt for her authority and laws, he did his best to sow the seeds of that ecclesiastical insubordination, to which undoubtedly is due whatever fulfilment his prediction has received. 1839.

If there was rebellion in refusing to abandon Dr. Chalmers' non-intrusion, there would have been the same in refusing to abandon his lordship's.

Before leaving this important assembly, it may not be out of place to glance for a moment at some of its other proceedings. They will serve to show that the stand the church was now making for the integrity of her constitution, however it might have cooled the attachment of certain statesmen and secular politicians, had been drawing more closely around her the affections of her own people, and the esteem of other branches of the church of Christ. The

A glance at the other measures of this Assembly.

1839. independence resolution of 1838 had broken up those conferences in London, at the house of a certain great political chief,—in which, for some months before, much interest had been expressed in the cause of the extension of the church of Scotland. It exerted, however, no such chilling influence among the people of Scotland themselves. And, accordingly, in the assembly of 1839, Dr. Chalmers had to report, as the contribution for church extension made during the preceding twelve months, no less a sum than £52,959. It was in the course of that same period a new fund had been commenced,—of whose origin and prospects Dr. Chalmers spoke in the following terms. The extent of spiritual destitution, and the consequent call for additional churches, being found to multiply the demands on the ordinary fund greatly beyond its means of meeting them,—"on revealing," said Dr. Chalmers, in his report to the assembly, "the difficulties of our scheme to him who from the first has been its most munificent supporter, Mr. William Campbell, of Glasgow—practised in business, and with a sagacity in devising liberal things only equalled by the open-heartedness which prompts and actuates him onwards to the noblest sacrifices; and leaves us at a loss whether most to admire the largeness of his benefactions or the largeness of his views,—this truly patriotic friend of the church of Scotland has suggested a plan, which now that it has been put, though as yet partially, into operation, bids fair, if only prosecuted with sufficient energy, to bring our enterprize into its desired haven. The proposal is to contribute, at the rate of £1 or more, for each of the next hundred new churches not begun to be built previous to the publication of the assembly's church extension report of 1838; or for any smaller number of new churches which subscribers may choose to fix upon." This supplementary fund, though but newly started, had already reached the

Continued prosperity of the Church extension scheme.

Mr. William Campbell of Glasgow, and the supplementary fund.

CHAP. VIII. munificent sum of £27,000. If peers and politicians thought 1839.

Peers and politicians might disrelish the Assembly's proceedings; but not so the members of the Church.

the church of Scotland less worthy of countenance because of her non-intrusion and spiritual independence, those who knew the practical worth and working of these principles had arrived at a very different conclusion.

It was under an act of this assembly, too, that a large body of presbyterians, which had been long separate from the establishment—the burgher synod of original seceders —returned to the communion of the national church,— "the beginning," as Mr. Candlish, the mover of the act, trusted, "of that ingathering by which the church of Scotland might yet be the church of all the people of the land." Nor was it only from brethren at home this assembly received testimonies of fraternal regard. The presbyterian church in England—the presbyterian church in Ireland—the presbyterian church in Canada,—had each of them appeared by their deputies in the assembly of 1839, for the purpose of cultivating friendly relations and a closer alliance with the evangelical and reforming church of Scotland.

The synod of original seceders reenter the Church.

Deputation to government.

Not long after the assembly rose, a deputation from the committee appointed under the motion of Dr. Chalmers, proceeded to London. Unhappily for the success of their mission, the government then in office were not strong.

The weakness of the government hindered them from grappling with the case.

Able to command but a bare majority in the house of commons, and liable to be out-voted any day in the house of lords, they could not afford to take a decided course on almost any question that was likely to involve much difference of opinion. There can be no reasonable doubt that to this cause was mainly due the hesitating, half and half course which they followed on the affairs of the church of Scotland. The veto-law had been passed by the assembly in 1834, with the express concurrence of the Scottish law officers of the crown. If the church had erred in believing that this law made no invasion of the legal rights of patrons,

1839. she erred in common with the highest authorities she could consult upon the question. Even, therefore, if it had not been as it was—substantially the same ministry and the same political party that were still in power in 1839,—the circumstance now stated would have entitled the church to expect the prompt assistance of the government in extricating a great national institution from difficulties growing out of a measure to which the proper legal advisers of that government had given their deliberate sanction.

Special obligation under which that government lay, to undertake the settlement of the Church's difficulties.

This is a consideration to which sufficient attention has never yet been paid. It is not improbable, indeed, that Lord Melbourne, and his colleagues, felt its force, and that in more favourable circumstances they would have acted accordingly. The timidity and irresolution, however, which, through their want of parliamentary strength had become a general characteristic of their public policy, would not suffer them to grapple with the case boldly and at once, and as its urgency and importance demanded. At first, it is true, the negotiations of the committee wore a very promising appearance. When the commission of assembly met on the 14th of August, shortly after the deputation returned home, the report of their proceedings that was laid before it was of a nature to encourage the best hopes of a speedy and satisfactory settlement. First, there was produced an official communication from Lord Belhaven, the queen's commissioner to the preceding general assembly, in which his lordship made the following gratifying statement: "I beg leave, at the same time, to mention to you, that I had the pleasure of accompanying the deputation to the heads of the government, and I feel myself entitled to say, that a strong desire was expressed both by Lord Melbourne and Lord John Russell to effect a satisfactory settlement of the question respecting the presentation of ministers; they both expressed their decided intention of making such

Favourable report made by the deputation to the August commission.

Communication from the Queen's Commissioner, Lord Belhaven.

CHAP. VIII. arrangements as would enable the queen's patronage to be exercised according to the veto-law: and Lord Melbourne stated that he would instruct the lord advocate to confer with the procurator of the church on this most important subject, and to draw up the heads of a bill to be laid before the cabinet as soon as possible, in order that the measure may have full consideration before the next meeting of parliament. I hope this will be, so far as it has gone, satisfactory to the church; it is extremely desirable that as much unanimity should exist as can be obtained, and I hope all parties will see the propriety of uniting, in order to effect a satisfactory adjustment of this very important matter." How little this just and patriotic sentiment of his lordship was responded to by the moderate party, or at least by many of its most influential members, will presently appear. The statement made by Lord Belhaven was reiterated in the report of the non-intrusion committee. That report was given in and read by Dr. Chalmers: after noticing the steps taken with a view to obtain the concurrence of members of parliament, and of the patrons themselves, in support of the object which the committee had been appointed to prosecute, it proceeded as follows:—"First, we can state our having received the assurance of the government that they were fully impressed with the importance of the subject, and would give it their most serious consideration, and that they would give instructions to the lord advocate to prepare, along with the procurator, a measure to be submitted to the cabinet. And for those who might desiderate something more definite, and as they perhaps feel, more substantial than this, we have the satisfaction of announcing, if not yet a specific measure by the legislature, at least a specific and most important concession to the views of the church on the part of the government. They have authorized us to state, that in the disposal of those livings which are at

1839.

The report of the non-intrusion committee given in by Dr. Chalmers.

Confirms the statement of Lord Belhaven.

1839. the nomination of the crown, its patronage will most certainly be exercised in accordance with the existing law of the church, a resolution which applies to nearly one-third of the parishes of Scotland."

The report further expressed a confident hope, founded, to some extent at least, on facts which had already come to the knowledge of the committee, that the private patrons would not be behind the government; and that, thus freed from the hazard of any new collision, time might be afforded for the friendly interposition of parliament. The committee concluded their report by re-echoing the sentiment of Lord Belhaven: "Let us fondly hope," said they, "all the feelings of party—whether of triumph on the one side because of victory, or of humiliation on the other side because of defeat—shall be merged and forgotten in the desire of a common patriotism; to the reassurance of all who are the friends of our establishment, to the utter confusion of those enemies who watch for our halting, and would rejoice in our overthrow."

Re-echoes Lord Belhaven's patriotic sentiment.

Surely there was nothing unreasonable or extravagant in this appeal. The moderate party disapproved of the veto-law, it is true; but there was nothing in it which troubled their conscience. With them the adoption or rejection of it was simply a question of expediency. They had acted under it without any difficulty for five years already. Their only difficulty in continuing to do so arose out of the Auchterarder decision. But, on the supposition of that difficulty being taken away by the legislature, conscience at least could have nothing more to say upon the subject. And now, therefore, when government was expressing its willingness to introduce a bill into parliament for that very purpose, and signifying its determination to use meanwhile the patronage of the crown in such a manner as to preserve the peace

Reason why it might have been expected that Lord Belhaven's and the Committee's appeal would have been responded to.

CHAP. VIII. of the church, it might well have been thought that no party within the church itself would incur the heavy responsibility of opposing this patriotic design. Even if the evangelical majority of the general assembly, under whose auspices the veto-law was adopted, had stood, in reference to the question of non-intrusion, on the same ground with the moderate minority,—had the question been to the majority as it was confessedly to the minority, a question of mere expediency, —it would still have been nothing more than what was due to a majority, that the minority should have given way. The mind of the church having again and again unequivocally declared itself on the side of the measure of 1834, it would not have been going farther than is the established usage of all public bodies, to expect that the minority should not persist in a factious attempt to defeat the wishes of the church. But the two parties did not stand in reference to non-intrusion upon equal ground. With the minority it involved, by their own acknowledgment, considerations of expediency alone. With the majority, as not only their professions then, but their conduct since have amply proved, it was an affair of conscience. Let the legislature affirm the principle of the veto-law, and not one member of the moderate party would feel himself called upon to leave the establishment. Let the legislature, on the other hand, affirm the principle of the Auchterarder decision, nullifying non-intrusion, and making it the "*statutory duty*" of presbyteries to intrude ministers upon reclaiming congregations, and no honest man in the majority could remain in the establishment. The moderate party knew this well. Dr. Cook, on one occasion, openly proclaimed in the assembly that very view of the position of the two parties in the church in reference to non-intrusion which has now been described. If you succeed, said he, speaking across the house, and ad-

1839.

The deference which is due by a minority to the majority.

Non-intrusion a question of conscience with the majority, but of simple expediency with the minority, who ought, for that reason, the more readily to have given way.

1839. dressing the majority,—if you succeed in getting parliament to confirm the veto-law, we stay in. If *we* succeed in preventing the passing of such a measure, you go out.

Dr. Cook's account of the position of the two parties in reference to the issue of the conflict.

It is only when contemplated in this point of view that the attempt to obstruct the legislative settlement of the question appears in its true colours. Lord Belhaven, evidently, had not thought it possible that any party would seek to carry matters to the extreme of driving its opponents out of the establishment. And certainly Dr. Chalmers and the non-intrusion committee had no disposition to impute such criminal recklessness to Dr. Cook and his friends. It was not long, however, till indications tolerably explicit were given, that scarcely any hazard to others would be considered too formidable, or any cost too great, to deter the minority in the church from maintaining the hostile attitude they had assumed.

Dr. Cook's unfriendly response to the appeal of the committee.

No sooner had Dr. Chalmers finished the reading of his report than Dr. Cook rose, and in the most unqualified terms, accused the government of disregarding the law of the land. It was in this strain the leader of the moderate party responded to the appeal from Lord Belhaven and the committee in favour of peace. "It had been distinctly laid down, that the law of the land, as determined by the supreme judicatories, conferred certain rights upon patrons, and before those rights were done away, it was requisite to remodel the law of the land. Yet the house had here a communication from her majesty's government, stating that they were determined to carry on their patronage in direct opposition to that law." Dr. Cook might as well have said, that because the law of the land, as determined by the supreme judicatories, had conferred on him a right to so many hundreds a year as professor of moral philosophy in the university of St. Andrews, he would be proceeding in direct opposition to that law, if he should, notwithstanding, direct that profes-

Charges the government with opposing the law of the land.

CHAP. VIII. sorial income, so long as his right to it continued, to be paid back into the funds of the university, or to be handed to the poor of the parish. Grant that, under the Auchterarder decision, the patronages of the crown might now be exercised without the least regard to the feelings and wishes of congregations, the crown was not bound to enforce this offensive and oppressive power. There was nothing whatever in the law of the land to hinder any patron from consulting the congregation, as to the acceptableness of the individual whom he proposed to nominate to the vacant charge. He had only to do this, and nothing more, in order to secure all which either Lord Belhaven or the committee had said concerning the intentions of government. Patronage so exercised would be found in perfect "accordance with the existing law of the church," and that without in the least interfering with any other law whatever. 1839.

Groundlessness of this charge.

Neither the crown nor private patrons bound to enforce all their civil rights.

The rude attack of Dr. Cook, therefore, is deserving of notice, not for any force of argument contained in it, but simply for the force and fierceness of that *animus* which it betrayed. The Rev. Mr. Cairns of Cupar expressed his "painful astonishment to hear from the Rev. Doctor (Cook) that he would look upon the conduct of government as a violation of the law of the land. He utterly abhorred and abjured the feeling which gave rise to such a declaration."

Rev. A. Cairn replies to Dr. Cook.

It was not, however, in the commission alone that the "feeling" which gave rise to Dr. Cook's attack upon the government appeared. Scarcely had the report of what took place in the commission passed into the public prints, when Lord Brougham assailed Lord Melbourne upon the subject in the house of lords. Evidently with a view to prejudice the peers against the church of Scotland, and to indispose them to legislate in its favour,—and in this way to deter Lord Melbourne's government from carrying its friendly intentions towards the church into execution,—the ex-chan-

Lord Brougham attacks Lord Melbourne in the House of Lords.

1839. cellor indulged himself first in a tirade against the proceedings of the general assembly, and next against the countenance which both Lord Belhaven and her majesty's government were alleged to have given to the rebellious church. Lord Belhaven, in his letter to the moderator of the assembly, had said, that he was commanded by her majesty "to convey to the moderator her royal approbation of the manner in which all the proceedings of the assembly had been conducted." Lord Melbourne declined to comment upon the conduct either of the queen or of her commissioner, Lord Belhaven. But as to what had passed between himself and the deputation from the church, he said it amounted to this —that the subject which the deputation had brought under his notice "deserved very serious consideration; that therefore the lord advocate would be directed to confer with the procurator of the church, to see whether the matter could not be settled,—not with the intention of framing a bill immediately,—not with the intention of pledging the cabinet to proceed to legislate on the subject,—but to show that it was a question that ought to be calmly and carefully considered. As to the crown patronage, all that was stated on that point was, that it would be administered, as it had hitherto been, in conformity with the provisions of the veto act passed by the general assembly in 1834." Obviously no two statements could be in more exact accordance than this of Lord Melbourne and that which Lord Belhaven and the deputation conveyed to the commission of assembly. The committee and Lord Belhaven were both somewhat more minute and precise than Lord Melbourne as to the instructions the lord advocate was to receive,—but neither the one nor the other had said anything to indicate that the cabinet had pledged itself to legislate at all.

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Lord Melbourne's reply.

Lord Melbourne's statement in exact accordance with that of Lord Belhaven and the committee.

Lord Brougham had probably succeeded in his object, which appears to have been simply to throw difficulties in

CHAP. VIII. the way of relieving the church from the rigid and unbend- 1839.
ing application of those views of the law of patronage, and of the super-eminent jurisdiction of the courts of law, on which his lordship's judgment in the Auchterarder case was founded. But this, though it was mischief enough to satisfy Lord Brougham, was not mischief enough to satisfy another and a far more deliberate and systematic opponent of the church's claims—Mr. Hope, the Dean of Faculty. In the drama of this great controversy, that learned person played many parts. Now he was the eager and influential partizan of moderatism, as an elder in the general assembly. Now he was the professional advocate of its principles at the bar of the civil courts. Now he was the legal adviser of those ministers and licentiates of the church who threw off their allegiance to their ecclesiastical superiors. Now he was the fierce controversial pamphleteer, scattering in high places accusations against the church with his pen, where his voice could not reach. Now he was the confidential correspondent of diplomatists and statesmen,—ever busy in marring any movement that promised to heal the divisions and avert the dangers of the church.

The apparent object of Lord Brougham's attack.

The Dean of Faculty a more relentless opponent than Lord Brougham.

The Dean played many parts in the drama of the conflict.

At the present stage of this narrative, it is to his labours as the controversial pamphleteer that some reference is due. Not long after the commission of assembly already noticed, there issued from the press "a letter to the lord chancellor, on the claims of the church of Scotland, in regard to its jurisdiction, and on the proposed changes in its polity: by John Hope, Esq., Dean of Faculty." In point of bulk, it was a very leviathan among pamphlets,—extending, as it did, to no fewer than 290 pages. It had been far advanced towards completion, it would appear, before the commission met, for the allusion to what occurred on that occasion comes in at the 270th page. His object was evidently the same as that of Lord Brougham—to defeat the church in her

His letter to the Lord Chancellor.

His object the same as Lord Brougham's, but prosecuted with far greater bitterness.

1839. efforts to procure a legislative adjustment of her difficulties, —but his means were considerably different. He does not, like the somewhat reckless but by no means malevolent ex-chancellor, complain either of the government or of Lord Belhaven,—but he spares no pains to cover with odium the deputation from the church. He boldly asserts, not only without a particle of tangible evidence, but in the face of the evidence which Lord Melbourne's own speech supplies, that Lord Melbourne had distinctly assented to a statement bearing "that the committee had wholly misunderstood and misrepresented the purport of what passed with his lordship." He affirms that the deputation had no authority from Lord Melbourne to make any public statement of what his lordship had said as to the manner in which the crown patronage would be exercised. He assumes, moreover, that Lord Melbourne's understanding of what he did agree to was altogether different from what the deputation reported. He charges it against the assembly's committee, as their unfair and insidious design, that "they plainly *wished to commit the government.* They wished, by the promulgation of what passed, to make it more difficult for this government or any other to exercise the prerogative of the crown. They wished to gain practically the abolition of patronage, 'in all parishes,' by an open announcement of this expression of the intention of government,—an announcement which could only have been made with the view to increase agitation on the subject, and to encourage the people in all parishes, whether the patronage was in the hands of the crown or of private patrons, to exert the power so as to enforce the right of nomination, and to concuss both the crown and private patrons into that result universally." And having made this insolent attack on the honesty and good faith of the committee, the Dean, kindly sympathizing with Lord Melbourne under all these wrongs, adds, and the italics are his own, "*I suspect*

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Accuses the committee of misrepresenting what Lord Melbourne had stated.

His offensive insinuation against the committee.

CHAP. VIII. *that Lord Melbourne has been very ill used in this whole affair.*" 1839.

The Dean's sympathy with the ill-used Lord Melbourne!

Those who study this controversy in after times will hardly fail to think it both singular and unfortunate that an individual capable of making such statements as these should have been permitted to exert any influence whatever on the minds of those who were to deal, whether in the cabinet or in parliament, with the great questions and interests which the controversy involved. As to the offensive imputation attempted to be fastened by the Dean upon the committee, of having made public, without Lord Melbourne's leave and contrary to his design, his statement regarding the patronage of the crown, it may be interesting, though altogether unnecessary, to record here the testimony of one of the most venerable men in Scotland, the Rev. Dr. Gordon of Edinburgh: "I have," he said in a letter to Dr. Chalmers upon the subject, "a most distinct recollection of the last interview the deputation of your committee had with Lord Melbourne on the subject of the government patronages. At the first interview his lordship had expressed himself in such a way as to leave no doubt on the mind of any one of the deputation, that the government had resolved to exercise the crown patronage on the principle of the non-intrusion law; but the deputation did not report that conversation without Lord Melbourne's express leave. It was stated to his lordship at the last interview, that the commission of the general assembly was to meet very soon after the return of the deputation to Scotland, when it was certain that they would be required to give some account of what had taken place in their correspondence with the government; and in immediate connection with this statement, the question was distinctly put, 'Will your lordship authorize us to state to the commission, that the government patronage will be exercised in accordance with the existing law of the church?' To this

The Rev. Dr. Gordon's account of what had passed at the interview with Lord Melbourne.

Lord Melbourne expressly authorized the deputation to report what he had stated.

1839. question Lord Melbourne replied, 'Certainly, most certainly, that the government patronage will be exercised as it has been since the passing of the veto-law.'" This decisive, though in the circumstances superfluous testimony, is contained in a pamphlet which the Dean's letter called forth from the pen of Dr. Chalmers. In the outset of his "remarks,"* and with the characteristic generosity of his nature, Dr. Chalmers had somewhat hastily assumed that in this his controversy with the Dean he had fallen "into the hands of a gentleman and a man of honour," of one who had made no impeachment "of the motives and character of individuals." Under this pleasing impression he had advanced a good way in his reply, when—upon a second and more careful perusal of the letter—he lighted upon the paragraphs from which the foregoing extracts are drawn. "I will not say," observes Dr. Chalmers, "how much I have been shocked and mortified by this painful discovery. The cause is still the same, but the combatant now stands in a new character before me: this casts another light on certain anterior passages of this pamphlet, in which light—if I had seen them at the time—I should have modified or rather repressed altogether certain anterior passages of my own." After refuting, one after another, the injurious and groundless charges which the Dean's bulky volume had crowded together into one vast, confused, and hideous libel upon the doings of the church of Scotland,—"my last, my concluding remonstrance with the Dean of Faculty," said the illustrious author of the "remarks," "is on the score of his unpatriotic, his truly un-Scottish attempt to bring down the established church of his own land in the estimation of our sister kingdom, and to excite against us all that

CHAP. VIII.

Dr. Chalmers' pamphlet in reply to the Dean's letter to the Lord Chancellor.

Dr. Chalmers withdraws the compliment he had paid to the Dean, and states his reasons for so doing.

His indignant remonstrance with the Dean.

* *Remarks on the Present Position of the Church of Scotland*, occasioned by the publication of a Letter from the Dean of Faculty to the Lord Chancellor, by Thomas Chalmers, D.D. and LL.D. &c., 1839.

CHAP. VIII. he thinks is most sorely and sensitively repugnant, whether in the nationality or in the episcopacy of England. He has ransacked the whole field of contemplation within our own borders; and seizing on all the hostile arguments, or semblances of arguments, which he could lay his hand upon, he has composed them into a numerous band of stragglers, having certainly more the appearance of a rabble than of a regiment, on the side and for the maintenance of his own cause. But his deadliest attempt by far to obtain for himself, in this our strictly internal quarrel, the vengeance and the victory, is when he calls in foreign auxiliaries to his aid; and with the obvious design of at length superseding all argument by the overwhelming parliamentary influence wherewith he hopes to overbear us. He tells Lords Brougham and Cottenham (p. 123) of a matter far too insignificant for them to hear, that I had branded in the general assembly their reckless disregard for the dearest feelings of my countrymen. They know how to make a generous allowance for what is said in the impetuosity of debate, and they also know that there is generosity enough in the hearts of Scotchmen to acquit them—as strangers to all our partialities and habits—of any malignant or hostile feeling towards our nation; but there can be no such apology and no such extenuation for the Dean of Faculty. By the prosecution of Auchterarder, whether instigated or only encouraged by himself or not, a weapon has been put into his hand—which he now wields with all his might—for the destruction of the liberties of the church of Scotland. So long as he addressed himself to the understandings of Scotchmen who do know, it was a legitimate weapon; but now that he addresses himself to the prejudices and antipathies of Englishmen who do not and cannot know, it becomes the act of one who—distrustful of his reasons, yet bent on the extermination of his adversaries—throws aside the armour

1839.

Unfairness of the Dean in striving to stir up the prejudices and antipathies of Englishmen against his opponents and their cause.

1839. of persuasion, and would now bring a strength of another kind,—the enforcements and the edicts of irresistible power to bear upon us. The church of Scotland will know how to appreciate the fitness of that man to be the ruler of her ecclesiastical councils who thus would substitute physical for moral force, who brandishes his threats of imprisonment (p. 77) over the heads of her ministers, and telling his party in parliament that what firmness has done before it can do again (p. 285), would re-establish in the midst of us that old policy of absolutism and violence which, if he indeed effectuate, will unpeople the church of her best clergymen, and alienate all the best and worthiest of our families from her tabernacle."*

The consequences that would flow from the Dean's counsels being followed.

It was the voice of a prophet that uttered this solemn warning; and the sequel will show, that however much it was despised by the Dean, and by those who suffered themselves to be guided by his counsels, the prediction was strictly and literally true. It will be well if another warning, pronounced upon the same occasion, have not an equally exact fulfilment. If it fail,—and God grant that it may fail—it will be due to other causes than to the success of the Dean's efforts to hinder the recognition of the church of Scotland's claims. He, and the high legal and political authorities to whom he addressed his appeal, seemed to care for nothing and to consider nothing but the upholding, in all its offensiveness of an obnoxious statute,—a statute brought in at the first by an act of the basest treachery, and now interpreted with a rigidity and a sternness unknown before. In comparison with this, the sacrifice that must be made of the moral and spiritual interests of the people, in deference to an act whose history was equally a disgrace to the state and a reproach to the church, seems to have been

The prediction of Dr. Chalmers has been literally fulfilled.

The Dean and his friends seemed to care for nothing but upholding a law that was a disgrace to its authors.

* *Remarks*, &c., pp. 95–97.

CHAP. VIII. treated by these men as a matter of very inferior concern. 1839
And it was in reference to these men, and to the fatal career they were pursuing, that near the close of his pamphlet, Dr. Chalmers broke out in this overwhelming burst of mingled indignation and grief,—"We have only to say to such and to all who have never once grappled with the realities of this great question —whether he be a peer in his lordly hall, or a lawyer in his writing chamber,—that if they will not step forth into the living world and thus engage with the *ipsa corpora* of the subject, then from that world there is a reaction awaiting them, which, deaf though they have hitherto been to a coming, will give them, and that full soon, the sense and the experience of a present danger. A people abandoned to irreligion will not remain inactive; but with the restraints of conscience and the fear of God unfelt, the restraints of human authority will soon be cast away. There is thus at the bottom of our social and political edifice a smouldering fire, which, if not met by the emollients of care, and kindness, and christian instruction, will break forth with the weight of a volcano, and upheave into fragments the whole system and structure of society. Men have broken loose from all those ancient holds which kept the community together; and there is now a waywardness in almost all spirits, which nothing, nothing but the education of principle can stem. The elements of a sweeping anarchy are busily at work; and at the bidding of a God of judgment is it ready to go forth on its errand of desolation. And should the revolutionary torrent once set in, the parties to whom we have now referred, immovable in the obstinacy of their own prejudices, will yet be driven like chaff before the wind, in the moral hurricane then abroad over the land,—the grandee unseated from his now towering pre-eminence; and the lawyer finding his munition of points and precedents to be frail as cobwebs in the breath of the popular indignation. It is

Dr. Chalmers tells the Dean and the Peers what mischiefs they are preparing for the country.

In destroying the Church's influence with the people, and hazarding its overthrow, they are leaving society to break loose from all moral and religious restraints.

1839. now in our power to disarm, and to pacify and to quell this labouring fermentation. The people are accessible, most hopefully accessible, through the medium of both their gratitude and their conscience. Examples of this are multiplying every day, and in sufficient number too, to warrant the conclusion, that if churches were enough multiplied, and parishes were enough subdivided, and ministers enough active and conscientious,—the breath of a new spirit would be infused into the hearts of men, and the fierce and fiery elements which are now at work would soften and give way before the omnipotence of Christian charity."

A different and a wiser policy might yet avert the storm.

END OF VOL. I.